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A CONSULTATION PAPER





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Minister's message

Dear fellow Ontarians:

The Common Sense Revolution outlines the Ontario government's plan for creating jobs and restoring the economic vitality of our province.

Central to this plan is the removal of government barriers to job creation, investment and economic growth. The Ministry of Environment and Energy has a role to play in this respect.

It makes no sense to have rules or regulations which discourage pollution prevention activities.

Companies should not have to report on substances they do not produce.

Plants should not need to obtain dozens of Certificates of Approval if one would suffice.

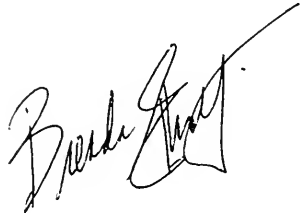
This review aims to remove such barriers, which represent lost opportunities for environmental improvement and economic growth. Every dollar we save eliminating red tape is a dollar that can be put toward environmental protection.

This consultation paper reflects nine months of discussion with industry, municipalities and other groups. During those months,

we heard time and time again about the importance of a healthy environment and a strong economy...and how the two go hand in hand.

We are now releasing a set of proposed reforms for your consideration. On the next page, you will find information on how you can participate.

Your views and ideas are important to us. They will help the ministry meet its challenge of protecting the environment, creating jobs and ensuring a more prosperous Ontario for the generations to come.



How to get involved

How Can I Participate?

You can participate in the regulatory review process by responding to this consultation paper with written submissions. Written submissions should be sent to:

What Kind of Feedback is Most Useful?

- Regulatory Reform Project
Ministry of Environment and Energy
8th Floor
135 St. Clair Ave. W.
Toronto, Ontario
M4V 1P5

How Will My Input Affect the Decisions?

- Submissions may also be sent by fax to:
Regulatory Reform Project
Ministry of Environment and Energy
FAX: (416) 323 4346

The deadline for all written submissions is September 15, 1996.


Further information or additional copies of this report may be obtained by contacting the Ministry's Public Information Centre at (416) 325 4000 or 1 800 565 4923. This report may also be accessed through the Ministry's Internet Web site: <http://www.ene.gov.on.ca>

In particular, the Ministry is interested in hearing about:

- Your responses to specific reform proposals;
- Whether you agree with the objectives and direction of proposed reforms;
- Regulatory issues that you feel should be, but are not yet addressed;
- Your ideas about better ways to achieve or implement proposed reforms;
- Expressions of interest from parties willing to participate in pilot projects.

All submissions received in response to this paper are public documents and may be viewed at the above address. Ideas and comments will be used to develop the final set of reforms.

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Highlights



Every dollar wasted on obsolete or redundant processes is a dollar that could be spent protecting our environment. And every dollar industry and municipalities save on the elimination of red tape, is a dollar to invest in job creation. Today, providing more responsive environmental protection means:

- focusing on environmental priorities to become more results oriented, cost-effective and customer driven;
- providing the flexibility and certainty industry needs to ensure jobs and economic growth;
- simplifying rules and eliminating red tape encountered by individuals, municipalities and business;
- replacing outdated approaches with new cost-effective alternatives more in tune with global trends; and,
- encouraging greater local government and private sector involvement in finding solutions that protect the environment as well as the health and safety of their communities.

If Ontario is to continue to enjoy some of the highest environmental and economic standards in the world, we will need to rethink the way we design our regulations and the way we deliver programs and services. This consultation paper outlines over 80 proposals to reform the 80 environment and energy regulations in Ontario to make them more responsive to the demands of the 90's — and beyond. Highlights of these reform proposals follow.

AIR QUALITY

Ontario's 20 air regulations are a mix of general (e.g. *General Air Regulation* 346) and issue-specific regulations (e.g. ozone depleting substances). The Ministry proposes to consolidate the 20 air regulations to 4 by:

- 1 Consolidating all provincial air quality standards into a single *General Air Regulation*; consolidating five ozone depleting substances regulations into one regulation; consolidating four acid rain regulations into one regulation and consolidating three vehicles and fuels regulations into a single regulation.
- 2 Revoking the *Air Contaminants from Ferrous Foundries Regulation* (Reg. 336) and the *Sulphur Content of Fuels Regulation* (Reg. 361) as they have been superseded by the *General Air Regulation* (Reg. 346) and the *Boilers Regulation* (Reg. 338).
- 3 Harmonizing: federal-provincial requirements regulating the production of ozone depleting substances by eliminating overlapping production requirements from provincial regulation; federal/provincial regulatory activities on vehicle pollution control and fuel quality with the federal government and the Ministry of Consumer and Commercial Relations; and, federal-provincial air quality reporting activities. Harmonization not only simplifies the system at less cost, it will ensure better and more coordinated environmental protection.

- 4 Using innovative management approaches in air quality by replacing the *Lambton Industry Meteorological Alert Regulation* (Reg. 350) with a Memorandum of Understanding with the Lambton Industrial Society, developing the concept of local airshed management contracts, and establishing pilot projects, including use of emissions reduction trading.
- 5 Replacing the *Hot Mix Asphalt Facilities Regulation* (Reg. 349) and the *Boilers Regulation* (Reg. 338) with Codes of Practice under standardized approval regulations.

APPROVALS

Each year, the Ministry issues over 8,500 approvals under the *Environmental Protection Act* (EPA) and the *Ontario Water Resources Act* (OWRA). In addition, some 22,000 septic system approvals are issued annually by local Boards of Health under Part VIII of the EPA, and 7,000 licences are issued annually under the *Pesticides Act*. As a first step in streamlining the approvals process, the Ministry has introduced amendments to the EPA and the OWRA to provide for standardized approvals regulations. A "Standardized Approval Regulation" specifies conditions that must be met to qualify for exemption from a Certificate of Approval. Other reforms focus the activities requiring approval, encourage voluntary pollution prevention and promote the development of new technologies. The Ministry proposes to:

HIGHLIGHTS

- 1 Remove the requirement for a Certificate of Approval for certain environmentally insignificant activities, such as small ventilation systems, and establish Standardized Approval Regulations for consistently controllable sources of pollutants.
- 2 Promote technological innovation, by enacting regulations to remove hearing requirements under the EPA and OWRA for new waste management technology demonstration projects.
- 3 Consult on the development of options for a revised fee structure for approvals, to enhance environmental protection and stimulate job-creating investment.
- 4 Establish pilot projects with industry to assess the feasibility of single-site approvals; consult on the concept of single-site approvals and invite expressions of interest in the pilot projects.
- 5 Encourage local involvement in the review and approval of local projects relating to concerns like noise, odours and dust; and establish a pilot project with a municipality to assess the feasibility of further transfer of the review function.
- 6 Consult on suggestions for improvements to the EPA Part VIII approvals program.

ENERGY

North America's electricity industry is undergoing immense change. Ontario Hydro faces increasing competitive pressures from all around the Great Lakes Basin and from the northeastern continental

transmission grid. In November 1995, the Government established the Advisory Committee on Competition in Ontario's Electricity System to study the issues, consult with stakeholders and consumers, and to make recommendations for achieving a safe, reliable and affordable electricity system that can meet the competitive challenges of the future.

The Advisory Committee recently released its report which makes recommendations on the structural, legislative, regulatory and ownership changes needed to ensure Ontario can continue to attract investment, create jobs, and compete globally. The report provides a framework for further discussions with consumers and industry stakeholders which will continue over the summer. Consideration of any changes to regulations under the *Power Corporations Act* will therefore take place as part of this parallel consultation process.

To ensure the currency and clarity of Ontario Energy Board regulations, the Ministry proposes to:

- 1 Remove all exemptions under the *OEB General Regulation* (Reg. 869) relating to transactions that have been completed.
- 2 Revoke the *OEB Rules of Procedure Regulation* (Reg. 870), once the OEB implements its rule-making powers under the *Statutory Powers Procedure Act*.
- 3 Consolidate three OEB regulations (Regs. 869, 870, 702) into one regulation.

- 4 Revoke the *Ontario Hydro Exemption Regulation* (Reg. 188/93), since it is obsolete.

To maintain consistent and up-to-date energy efficiency standards, the Ministry proposes to:

- 1 Amend the *Efficiency Standards Regulation* (Reg. 82/95) to add minimum efficiency standards for gas-fired room heaters, wall furnaces and fireplaces; and for fluorescent lamps that are primarily for use in area lighting; and,
- 2 Amend the *Efficiency Standards Regulation* (Reg. 82/95) to update existing standards for three products: electrically heated storage water heaters; parking lot and area dusk-to-dawn lighting; and for cobra-head type roadway lighting.
- 3 Revoke the *Water Heater Regulation* (Reg. 933) since it is now obsolete.

ENVIRONMENTAL ASSESSMENT

The Minister of Environment and Energy recently introduced a package of amendments to the *Environmental Assessment Act*. These amendments address concerns identified by municipal and private sector proponents and public interest groups, such as: the absence of specified time-frames for Government review and decision-making; the lack of formal public consultation requirements; the need to define the terms of reference for an environmental assessment study at an early stage; and the need to focus hearings on issues of environmental significance. To

continue to improve Ontario's environmental assessment process, the Ministry is currently proceeding with the following reforms:

- 1 Revoke 315 obsolete *EA Exemption Regulations*.
- 2 Release the revised *General EA Regulation*.
- 3 Draft new "Rules of Procedure" under the *Statutory Powers Procedure Act* and subsequently revoke the Environmental Assessment Board's regulation describing their rules of practice.

ENVIRONMENTAL BILL OF RIGHTS REGULATIONS

Approximately 2,500 notices of proposals were placed by the Ministry on the EBR Registry last year. These notices cover a wide variety of instruments ranging in significance from approvals for small ventilation systems to approvals for complex chemical or petrochemical plants. Environmental groups have indicated that the large number of instruments placed on the registry obscures matters of environmental significance. To address those concerns, the Ministry proposes to:

- 1 Revise the *EBR Classification of Proposals for Instruments Regulation* (Regulation 681/94) to remove notice requirements for proposals having little or no environmental impact or for which there is limited public interest related to the Registry posting.
- 2 Revise the *EBR General Regulation* (Reg. 73/94), to reflect the renaming of Ministries and Acts (administrative amendment).

PESTICIDES

Each year, the Ministry issues over 7,000 licences for pesticide exterminators and vendors, and classifies some 350 new pesticides products under the *Pesticides Act* and Regulation 914. The Ministry is proposing the following changes to ensure the safe use of pesticides to protect our health and the environment, to encourage integrated pest management (IPM) approaches and reduced pesticide use, and to eliminate regulatory requirements that do not have environmental benefits:

- 1 Replace the provincial pesticide classification system with an equally strong national pesticide classification system.
- 2 Streamline the licensing system and reduce the different types of pesticide licences from 53 to 15.
- 3 Introduce recertification every five years for licensed exterminators and new requirements for untrained assistants to take basic health and safety training.
- 4 Remove permit requirements for pesticide applications that pose little environmental risk.
- 5 Remove EBR registry requirements for pesticides with new active ingredients, since the federal government is implementing equally accessible consultation procedures.
- 6 Simplify insurance requirements for operators and require a minimum of \$1 million in comprehensive third party liability for all pest control businesses.
- 7 Upgrade training materials for pesticide exterminators to harmonize with recently adopted national standards.

- 8 Replace burial of pesticide containers with new requirements for recycling of empty commercial and agricultural plastic and metal pesticide containers.
- 9 Eliminate sections on the care of older pesticides that are no longer available.
- 10 Simplify public notification requirements to encourage integrated pest management and reduced pesticide use.
- 11 Consolidate and clarify requirements controlling use of fumigants.

SPILLS

To better focus the efforts of regulated parties and the Ministry on environmentally significant spills, the Ministry proposes to:

- 1 Revise the *Spills Regulation* (Reg. 360) to clarify reporting requirements and procedures to eliminate trivial and frivolous reporting.
- 2 Encourage industry to base their estimates of reportable spill quantities in contingency plans on an assessment of the likelihood of adverse environmental effects.

TRAINING, CERTIFICATION, LICENSING AND ACCREDITATION

To streamline the process for delivery of training, certification, licensing and accreditation (TCLA) and to facilitate implementation of new requirements, the Ministry proposes to:

- 1 Create a new TCLA regulation which would assemble requirements from existing regulations and develop a framework for future initiatives. This may result in replacement of existing regulations (e.g. *Dry Cleaners Reg.* 323 and *Water Works and Sewage Works Reg.* 435).

WASTE MANAGEMENT

The Ministry of Environment and Energy has identified several areas where regulatory requirements for waste management can be modified to improve environmental protection and make waste management practices more efficient. The Ministry proposes to:

- 1 Designate standards and approval requirements according to four classes of facility, based on potential environmental risk.
- 2 Set comprehensive and specific standards for the design and operation of landfills.
- 3 Revise the definition of "recyclable material" to encourage innovative approaches to reuse and recycling.
- 4 Introduce 5 categories of fill based on risk and acceptable uses.
- 5 Expand the definition of "agricultural wastes" to include a number of off-site farm activities and to exclude hazardous and industrial liquid waste.
- 6 Consider expanding the definition of "waste derived fuel" to include non-hazardous solid wastes and to specify thermal energy value requirements.
- 7 Consolidate all waste management requirements into one regulation.
- 8 Harmonize federal and provincial definitions of "hazardous waste" to ensure strong, consistent and equitable standards.
- 9 Establish a simplified roster system for tracking small quantities of hazardous and liquid industrial waste.
- 10 Simplify and standardize administrative requirements controlling storage and movement of PCBs; and set approval requirements for mobile PCB destruction facilities according to risk.
- 11 Focus Selected Waste and Pesticide Container Recycling Depot rules on standards that protect the environment.
- 12 Permit the collection of small quantities of other waste such as household hazardous waste at Selected Waste Depots.
- 13 Implement the improved definition of "biomedical waste".
- 14 Revoke obsolete regulations: 344 — *Disposable Containers for Milk*, 345 — *Disposable Paper Containers for Milk*, 348 — *Hauled Liquid Industrial Waste Disposal Sites*.
- 15 Amend *Municipal 3Rs Regulation* 101 to allow two-stream systems and to provide one list from which municipalities must choose seven or more Blue Box materials.
- 16 Seek input on revoking the *Waste and Packaging Audit and Reduction Workplan Regulations* (102 and 104).
- 17 Reduce approval requirements for original product manufacturers to set up "Manufacturer Controlled Networks".
- 18 Seek alternative approaches for promoting refillable containers.

WATER QUALITY

Ontario's water quality management system protects surface water, groundwater and drinking water under 17 regulations and numerous guidelines, objectives, instruments and programs. To improve water quality management, the Ministry proposes to:

- 1 Control municipal discharges by establishing a performance-based regulation for sewage treatment plants in cooperation with stakeholders.
- 2 Replace the *Marinas Regulation* (Reg. 351) with a voluntary Code of Environmental Practice. The regulation would be revoked only after successful implementation of the Code of Practice. The current level of environmental protection will be maintained by the *Discharge of Sewage from Pleasure Boats Regulation* (Reg. 343) which prohibits sewage discharge from pleasure boats.
- 3 Update the *Ground Source Heat Pumps Regulation* (Reg. 77/92) to restrict the use of methanol in ground source heat pumps, as safer heat transfer fluids are now available.
- 4 Remove the requirement in the *MISA Pulp and Paper Regulation* for the pulp and paper sector to submit reports on how to reach zero AOX by 2002 and remove the reference to a goal of zero AOX.
- 5 Reduce routine MISA chronic toxicity testing requirements when sufficient data has been collected to analyse trends.

- 6 Remove MISA reporting and monitoring requirements for substances that are not used in a facility's industrial processes.
- 7 Reduce monitoring frequency for facilities that surpass effluent limits as an incentive to good performance.
- 8 Revise MISA Regulations to allow regulated facilities to store monitoring data using software of their choice. Summary data will be submitted to the Ministry in a Ministry approved electronic format using any software. Detailed data requested by the Ministry can be submitted in any format.
- 9 Coordinate MISA reporting requirements with the federal government.
- 10 Revise the *Wells Regulation* (Reg. 903) to increase the licensing fee, decrease the frequency of licence renewal, and require that the water well records be submitted in electronic format.

THE REGULATORY PROCESS

The Ministry proposes to:

- 1 Develop and implement a "Regulatory Code of Practice" to ensure the consistent application of Ontario's new Less Paper/More Jobs Test for all new environment and energy regulation.

Going Beyond Regulation

Regulation will have a strong and continuing role in environmental protection, where it provides an effective solution to problems and where costs are commensurate with benefits. Scientifically sound and well designed regulations and standards provide clear and uniform requirements for regulated parties. Good regulation provides the assurance of protection desired by the public and the level playing field required by the regulated community.

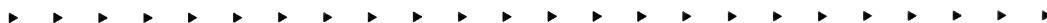
As the Ministry moves ahead, however, there is a need to build upon our regulatory base with mechanisms that are incentive based, providing encouragement for self-initiative, environmental stewardship, and continuous environmental improvement beyond the requirements of regulation. We need to combine a baseline of smart regulation with incentives for performance.

In this context, the Ministry will actively explore opportunities for pilot projects with business for greater use of third party accreditation, codes of practice, economic and market-based instruments, environmental management systems, performance agreements and performance-based standards.

While continuing to maintain high standards of environmental protection and promote energy efficiency, this comprehensive package of proposed regulatory reforms and non-regulatory measures will contribute to job creation, economic growth, better client service and lower costs.

The Ministry invites you to comment on the proposals in this paper. Your input is important to the sound reform of Ontario's environment and energy regulations.

The need for reform



*Why does Ontario need a more
responsive approach to environmental
protection?*



The Ontario government is working to ensure responsive environmental protection and economic growth. Improving the quality of our environment depends on strong environmental laws and on a strong economy.

Every dollar saved on unnecessary process is a dollar which can be used for environmental protection. Every dollar industry and municipalities save on the elimination of red tape and obsolete regulations, is a dollar to invest in job creation and economic development.

During 9 months of consultation we have heard from groups and individuals that Ontario's 19 statutes and 80 regulations are accompanied by unnecessary rules and red tape. These act as barriers to job creation and economic growth. They are costly to taxpayers and result in lost opportunities for environmental improvement.

The government has already begun to act. For example, we have:

- returned responsibility for waste management back into the hands of municipalities where it belongs and have expanded their choices of disposal options;
- introduced Bill 76 to improve the *Environmental Assessment Act* and make the process more effective, more timely and less costly;
- released among the toughest land-fill standards in the world to ensure the environment is protected and are making the approvals process less costly, less time-consuming and more predictable;

- released clear and workable new guidelines on managing and using contaminated sites;
- unveiled legislation to improve the approvals process with clear and precise rules that will both protect the environment and require fewer tax dollars; and,
- tabled the *Government Process Simplification Act (Ministry Environment and Energy)* to cut red tape and provide for more flexible operations of the Environmental Appeals Board and the Ontario Energy Board.

The message is clear. We must rethink the way we regulate and deliver services if Ontario is to continue to enjoy some of the highest economic and environmental standards in the world.

We must remove rules and regulations which currently discourage the introduction of pollution prevention technology (see page 25).

We must stop requiring that industry report on substances which they do not produce (see page 49).

We must gear standards and approvals to the degree of environmental risk posed by both non-hazardous and hazardous waste (see page 41).

We must remove redundant and outdated regulations, such as the 315 obsolete exemption regulations under the *Environmental Assessment Act* (see page 31).

We must ask whether it still makes sense to require a facility to obtain dozens of separate Certificates of Approval for emissions affecting a single medium like air (see page 26).

We must look at other tools to encourage industries to go beyond compliance, to incorporate pollution prevention into the production process, and to stimulate environmental technology innovation (see page 54).

Our proposed reforms are designed to make government more efficient and more responsive to the demands of the 90s. These reforms would maintain high standards of environmental quality while reducing barriers to economic growth and job creation.

REMOVING BARRIERS TO JOBS AND GROWTH

Ontarians clearly expect reforms to the way government works — to reduce costs and to spur job creation and growth. For MOEE, this means:

- Focusing on core responsibilities;
- Achieving greater efficiency through alternative program delivery (e.g. privatization or devolution);
- Improving customer service; and,
- Focusing on outcomes.

Governments can no longer afford to manage all environmental problems through regulation alone. We have to reconsider the balance of benefits and costs to both government and industry. Regulation is not effective public policy if it is not implemented or enforceable — or if costs outweigh benefits.

While the provincial government has been developing legislation, rules and regulations over the last twenty years, so too have municipal governments and the federal government. This array of rules has contributed to unclear roles and responsibilities for environmental protection.

We are working with the federal government to clarify roles, minimize overlap and duplication. In so doing, we will ensure that we maintain or strengthen our standards.

Likewise, the current provincial “Who Does What?” initiative to define the roles and responsibilities of the province and the municipalities will clarify environmental responsibilities for waste, approvals, water and air quality, eliminating costly duplication of efforts.

ENHANCING OUR COMPETITIVE ADVANTAGE

Industry and municipalities have asked that Ontario’s environmental regulatory system be changed to provide faster response to applications for approvals, clearer definitions and rules, and better customer service. We must make our system simpler, less time consuming and less costly for those affected by regulations. We must provide a system that is responsive to these needs, providing a positive climate in Ontario for business to be both environmentally responsible and competitive. We must achieve this in a way that improves environmental protection.

Several international trends underscore the need to innovate to remain competitive:

- As capital becomes increasingly mobile and reliant on high technology infrastructure, we must continually find new ways to make environmental management clear, flexible and predictable;
- The world financial and liability insurance markets are placing increasingly rigorous demands for environmental performance on corporations. Bringing greater clarity to rules and regulations supports industries in meeting these ever increasing standards;
- International environmental and trade agreements and consumer demands for environmentally sound goods and services are putting unprecedented pressures on governments and industry to innovate in finding more efficient ways to protect the environment; and,
- Current regulatory requirements that may function as non-tariff barriers need to be brought in line with current practices.

A reformed system of environmental regulation will contribute to a competitive business climate and effective environmental protection by ensuring maximum clarity and certainty. It will provide industry with greater flexibility in meeting high standards and it will provide incentives to innovate and adopt pollution prevention strategies.

ENCOURAGING INNOVATION IN ENVIRONMENTAL PROTECTION

In many countries environmental protection agencies are reducing their emphasis on traditional "command and control" regulatory approaches. New approaches make use of incentives, market forces, and education.

While there continues to be a role for prescriptive regulation in specific circumstances, there is an evolving trend towards use of a broader array of environmental management approaches.

Economic instruments have been gaining ground in all jurisdictions as a means for environmental protection. For example, the Swedish government implemented a NO_x charge and set a target for NO_x emission reductions of 35% by 1995. This target was met three years early in 1992. By 1993, reductions were 44% below base levels. Overall, NO_x emissions have been reduced by 9,000 tonnes.

In the U.S., six years after it was approved by the U.S. Congress as part of the *Clean Air Act*, emissions permit trading has encouraged companies to cut sulphur dioxide (SO₂) emissions faster and more cheaply than ever expected. The 110 most polluting power plants emitted 5.3m tonnes of SO₂ last year, well below a government ceiling of 8.7m tonnes.

Ontario currently employs a number of economic instruments in its environmental protection activities but we must consider making greater use of them.

Voluntary Agreements put the onus on industry to set targets and to coordinate, finance and practice measures that mitigate the environmental effects of their own activities. Many countries including Japan, Denmark, Sweden, Holland and Britain, are adopting voluntary agreements as a means to complement regulations.

The advantage of voluntary arrangements is that they build on the positive performance of certain industries and significantly reduce government costs associated with regulation and enforcement. The drawback is that not all companies may participate in voluntary agreements, and consequently, companies who have voluntarily invested in environmental protection measures can find themselves shouldering greater costs than their competitors.

There is therefore a continuing need for baseline regulatory requirements to ensure a level playing field for industry and protection of the environment.

Ontario has been a leader in the development of Memoranda of Understanding with industry sectors for voluntary pollution prevention. There is, however, potential to expand the use of this tool to advance environmental protection.

The impending **ISO 14000** system of environmental management quality assurance is one international initiative that will have a significant impact on industrial environmental practices in Ontario.

Compliance with this standard will be voluntary, but will be driven by international marketplace pressures for evidence of corporate environmental performance. While certification under ISO 14000 may not be appropriate or necessary for all industries in Ontario, the methodologies used in the standard will improve environmental protection.

The use of strict regulatory measures to ensure that polluters obey the law remains a cornerstone of Ontario's system of environmental management. Our system has, however, matured to the point where change can allow us to benefit from emerging trends such as the use of incentives, partnership approaches and voluntarism. Our regulatory system must also be well positioned to capitalize on the major economic opportunities created by sound environmental practices — both at home and abroad.

CONCLUSION

Why does Ontario need a more responsive approach to environmental protection?

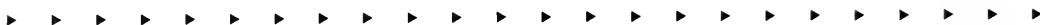
Ontario needs to reform its environmental protection regulations in order to achieve its objectives of continued environmental protection coupled with economic growth and job creation.

Providing more responsive environmental protection means:

- focusing on environmental priorities to become more results oriented, cost-effective, and customer driven;
- providing the flexibility and certainty industry needs to ensure jobs and economic growth;
- simplifying rules and eliminating the red tape encountered by individuals, municipalities and business;
- replacing outdated approaches with new cost-effective alternatives more in tune with global trends; and,
- encouraging greater local government and private sector involvement in finding solutions that protect the environment as well as the health and safety of their communities.

By fulfilling each of these goals for regulatory reform, Ontario can ensure a healthy, safe environment, a strong economy and better quality of life for current and future generations.

Directions for change



What are the objectives of regulatory reform? How will these objectives be achieved?

The Directions for Change section of the discussion paper:

- outlines the Ministry's objectives for reforming regulation; and,
- presents specific proposals for regulatory reform.

These proposals are based on the results of an internal review of the Ministry's current regulations, and a preliminary round of informal submissions from certain key stakeholders ranging from industry to environmental groups. Some of the proposed reforms may require legislative changes. Additional detail on proposed changes and the regulations affected are available in the Technical Annex to this paper.

The fundamental objective of MOEE's regulatory reform is to ensure continued human health and safety and environmental protection while eliminating red tape, obsolete regulations and simplifying the system in order to promote economic growth and job creation.

Within this context, the Ministry has set five major directions for change:

1. Focus on Environment & Energy Priorities

In changing the regulatory framework, the Ministry will tailor approvals and focus resources on problems involving greatest risk to human health and the environment. Regulations will be based on sound science and economics. We will ensure that the benefits of any new regulations outweigh the costs to the regulated community and government.

2. Emphasize Accountability and Results

Ontarians demand government and industry accountability for effective management of the environment and for a safe, secure energy supply. The Ministry will encourage improved accountability by setting tough, clear standards while providing flexibility and opportunities for innovation. Good environmental performance by regulated parties will be recognized.

3. Simplify Regulation and Approvals Processes

The Ministry will reduce “red tape” by eliminating unnecessary steps in our regulatory processes, by reducing information requirements that provide minimal added value and by making processes and requirements as clear and simple as possible.

4. Encourage Continuous Improvement and Voluntary Action

Regulation is only one tool available to government and business to improve and protect the environment. Going beyond regulation means providing incentives to achieve more than minimum regulatory requirements. The Ministry will recognize and encourage voluntarism, resource conservation and pollution prevention by adopting new tools, including economic instruments. We will increase certainty and predictability through effective, equitable enforcement of regulations and we will recognize and reward our clients who demonstrate a strong consistent commitment to self-regulation and industry stewardship.

5. Ensure Regulation Is Clear, Consistent and Current

For all existing and new regulation, the Ministry will ensure that regulations are unambiguous, understandable and enforceable; that regulatory processes are timely and predictable and that regulations reflect appropriate conditions, knowledge and technology. In developing regulations, we will employ collaborative, transparent decision-making.

We will work with industry and other governments to assign clear roles and responsibilities for environment and energy management that promote a fair and ethical distribution of environmental costs and regulatory burdens. To ensure consistency and minimize overlap and duplication, we will harmonize regulations, standards, and approvals processes to maintain or enhance environmental performance.

Air Quality

The Ministry of Environment and Energy works to achieve clean, healthy air throughout the province. Historically, air quality improvements have been achieved by controlling air pollution at source through regulations, approvals, pollution prevention activities and lifestyle changes. Minimum acceptable air quality is established through air standards and ambient air quality criteria. Ontario's 20 air regulations under the *Environmental Protection Act* are a mix of general (e.g. *General Air Regulation 346*) and issue-specific regulations (e.g. ozone depleting substances).

Today, Ontarians face significant challenges to find new ways to maintain and improve local and regional air quality, and to do our part to meet global air challenges. We need to address the cumulative impacts of air pollution from many sources (including stationary point, mobile, regional, and fugitive sources). We must employ new management approaches to further reduce air pollution and encourage technologies and processes that prevent pollution before it is created.

The current provincial regulatory system for air is overly complex, with some elements that are outdated or duplicate federal requirements. To update and improve this system we must

undertake a comprehensive overhaul of the 20 regulations and provide Ontario's communities with new opportunities to manage local air quality.

OPPORTUNITIES FOR REFORM: Focusing on Urban Smog:

Urban smog has been identified as a priority area for Ministry action. Vehicles and fuels are the most significant local contributors to airborne pollutants. Integrated action is required to update regulations, to set new performance standards, to provide flexibility in meeting targets and to encourage local action on air quality — if we are to reduce smog. The Ministry, in consultation with many stakeholders, is developing an action plan to achieve reduction of urban smog.

However, since 50% of smog affecting Ontario originates south of the border, in U.S. states like Ohio or Michigan, cooperative action is required. Ontario is addressing this through the Canadian Council of Ministers of Environment consultative process on transboundary air issues. Ontario is also committed to working with the federal government and provinces to develop a harmonized and coordinated approach to cleaner vehicles and fuels in Canada.

To reduce smog-creating pollutants and to clarify the regulatory framework, the Ministry proposes to:

- Revise the Gasoline Volatility Regulation (Reg. 271/91) to reduce emissions by lowering gasoline volatility requirements from 72 kPa to 62 kPa.
- Consolidate three vehicle and fuels regulations into one regulation that clarifies existing requirements and harmonizes federal-provincial overlapping requirements.

Setting Clear Standards:

Currently, Ontario's air standards are comprised of a complex mix of: ambient air quality criteria, point of impingement standards, air pollution indices, and emission reduction requirements (e.g. acid rain regulations). These standards define the acceptable levels of air quality to safeguard the ecosystem and human health. In setting air standards, the Ministry takes into account economic impacts and the effects of new and existing technology.

A major challenge facing the Ministry is the need to deliver an increased number of scientifically-sound environmental standards, particularly for air, cost-effectively. To meet this demand, the Ministry has developed a draft plan that identifies standards to be established or revised over the next three years.

To provide clear standards for air quality, the Ministry proposes to:

- Consolidate the current General - Air Pollution Regulation (Reg. 346) and the Ambient Air Quality Criteria Regulation (Reg. 337) into one new general air regulation listing all provincial air standards for specific substances.

In a separate but complementary exercise, the Ministry proposes to:

- Release a draft 3-year Standards Setting Plan which identifies priorities for standards development and revision. The Ministry will consult with stakeholders on the plan.
- In accordance with the Standards Setting Plan, review and update air standards on an on-going basis.
- Adopt high and effective standards from other jurisdictions, and encourage joint development of standards through partnerships with other regulatory agencies, the regulated community and stakeholders. [Where this is not appropriate or timely, in-house standards development will continue].

The Ministry welcomes those who may be interested in participating in standards development.

Streamlining Regulation:

Two regulations — *Air Contaminants from Ferrous Foundries* (Reg. 336) and the *Sulphur Content of Fuels* (Reg. 361), are obsolete. They have been superseded by the *General — Air Pollution Regulation* (Reg. 346) and the *Boilers Regulation* (Reg. 338).

Fourteen other regulations require updating to: remove unnecessary or redundant provisions; consolidate requirements; ensure that use of models is flexible and based on current science; and remove unnecessary reporting requirements (e.g. acid rain regulations require quarterly reports when annual reports are adequate to demonstrate compliance with annual SO₂ emission limits).

Harmonizing Government Regulation:

Fuel quality and composition and vehicle pollution control are regulated by four different agencies in two levels of government.

Environment Canada sets national fuel standards while Transport Canada is responsible for establishing emission standards for new vehicles. The Ontario Ministry of Environment and Energy is responsible for controlling emissions from vehicles currently on the road. The Ontario Ministry of Consumer and Commercial Relations is responsible for

To reduce regulation and streamline the regulatory framework for air quality, the Ministry proposes to:

- Revoke the *Air Contaminants from Ferrous Foundries Regulation* (Reg. 336) and the *Sulphur Content of Fuels Regulation* (Reg. 361) since they have been superseded by other regulations.
- Revise and consolidate 14 air regulations into four new regulations: (1) an acid rain regulation, (2) an ozone depleting substances regulation, (3) a vehicles and fuels regulation and (4) a general air regulation.
- Eliminate sections of the *Ozone Depleting Substances and Acid Rain regulations* which specify targets that have been achieved.
- Update and move air modelling requirements from the *General Air Pollution Regulation* (Reg. 346) into a guideline that will permit the use of a wider range of models.
- Move training components out of several regulations (eg. *Dry Cleaners* Reg. 323/94) into a new, consolidated *Training, Certification, Licensing and Accreditation regulation* to allow regulated parties to more easily locate and identify their responsibilities.

safety-related aspects of fuels. Beginning this summer, the Ministry of Environment and Energy will start discussions with these agencies on harmonization of government roles and potential roles for third parties. Ontario will insist that equal or better environmental protection must be achieved.

The Ministry has signed a Memorandum of Understanding (MOU) with Environment Canada covering cooperation in the reporting of air pollutants. The Ministry has made proposals for integrating federal and provincial ambient air quality and emissions data.

In ensuring clearer delineation of roles and responsibilities, Ontario will ensure that levels of environmental protection are maintained or enhanced. The Ministry proposes to:

- Harmonize federal-provincial regulatory activities on vehicle pollution control and fuel quality with the federal government and the Ministry of Consumer and Commercial Relations.
- Harmonize federal-provincial air quality data reporting activities.
- Harmonize federal-provincial requirements regulating the production of ozone depleting substances by eliminating overlapping production requirements from provincial regulation.

Using Innovative Management Approaches:

a) Local Airshed Management Units

The Ministry has worked with industry and community groups to look at alternative means of reducing air pollution. The Windsor air study is an example of successful local decision-making between the community and industry. The Ministry plans to build on this pilot project experience to implement new ways to address local air quality needs and to promote continuous improvement and increased use of performance-based standards and regulations.

Under certain conditions — particularly where air pollution is caused by emissions from many diverse sources, transboundary movements of air pollutants, or unique topographical or meteorological conditions — new approaches may be more effective for addressing local air quality.

Local Airshed Management Units (LAMUs) offer one such approach. A typical LAMU would be comprised of representatives from the community, local industry and the government. LAMU airsheds could be as small as one city or as large as a major industrial region. Under LAMUs, communities, with the guidance of the Ministry, would be able to determine what substances to address and what specific actions to take. LAMUs would be empowered to use a wide range of methods, including local airshed

management contracts; economic instruments (e.g. emissions reduction trading); pollution prevention activities, and community outreach programs.

Airshed management contracts would set environmental performance goals for air quality that are precise, quantifiable and achievable within the time period of the contract. The contract would require parties within the LAMU to commit to a plan of action to improve environmental performance — beyond existing regulatory requirements. Environmental indicators would be identified, with regular evaluation of progress and results reporting to the community.

Emissions reduction trading is an economic instrument that will be considered for LAMUs. Under emissions reduction trading, as long as the *total* emission to the environment is reduced, facilities with low-cost treatment options can sell their surplus emission credits for a given pollutant to other facilities.

b) Codes of Practice

Air quality management in Ontario can be improved through the use of a broader, more creative mix of policy and program tools. A Code of Practice is a comprehensive set of recommended principles and practices designed to ensure a high standard of environmental protection for a specific industrial sector. For example, the *Hot Mix Asphalt Facilities Regulation* currently requires portable facilities

to notify the Ministry when they re-locate, but does not require a separate approval at the new location. Implementing a code of practice would provide clear and comprehensive instruction to ensure environmentally safe operation of these facilities. At the same time, red tape associated with the approval requirements would be reduced.

c) Memorandum of Understanding

In other cases, such as the Lambton Industrial Meteorological Alert, a Memorandum of Understanding would allow industry greater flexibility in responding to SO₂ levels and reporting SO₂ data. The Ministry would continue to enforce provincial air quality standards through the *General Air Pollution Regulation* (Reg. 346).

d) Accreditation

Although it is not widely used, third party accreditation has been used successfully to ensure that dry cleaners are trained in the environmental management of dry cleaning solvents. In this case, the Great Lakes Pollution Prevention Centre administers delivery of training programs for dry cleaners. Other applications for third party accreditation will be explored.

In seeking innovative approaches for air quality management, the Ministry proposes to:

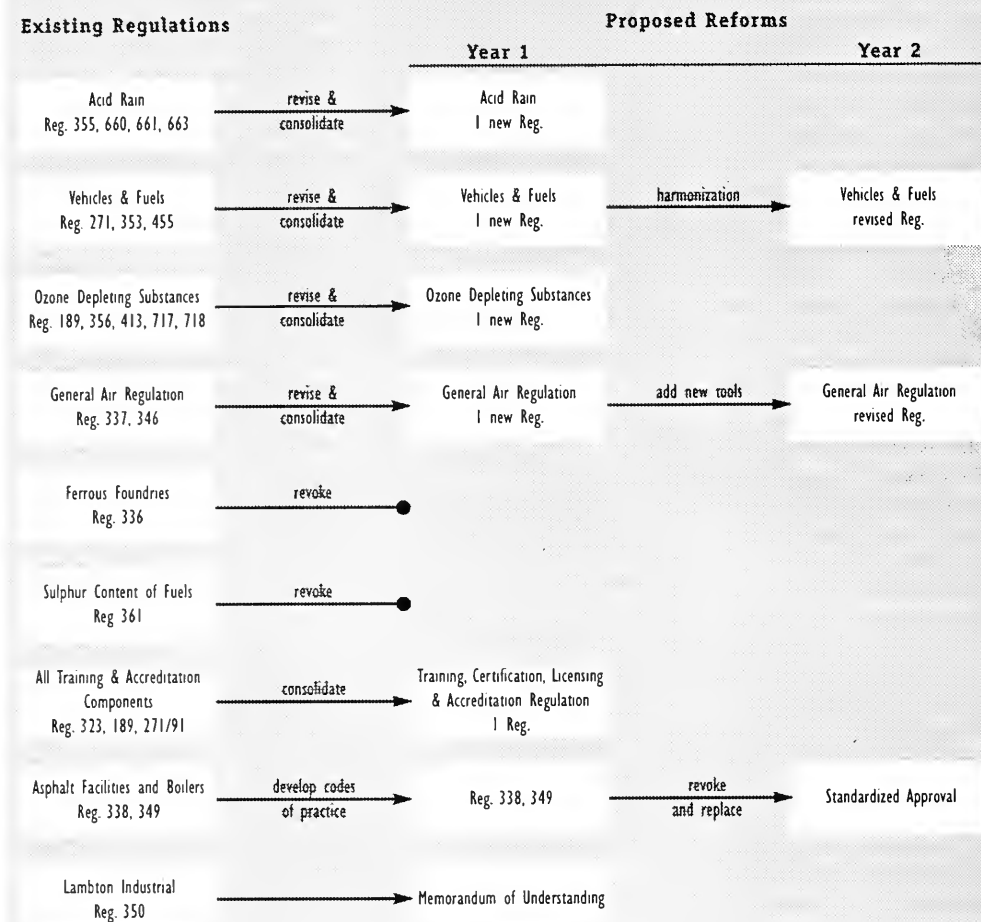
- Establish a regulatory provision in the new General Air Regulation to empower communities to manage their own airsheds, to meet or surpass current provincial standards within Local Airshed Management Units (LAMUs).
- Work with stakeholders to develop the concept of LAMUs over the next year and initiate pilot projects, including the use of emission reduction trading. The Ministry invites comments and expressions of interest regarding LAMUs.
- Replace the Hot Mix Asphalt Facilities Regulation (Reg. 349) and the Boilers Regulation (Reg. 338) with Codes of Practice under a Standardized Approval Regulation.
- Replace the Lambton Industry Meteorological Alert Regulation (Reg. 350) with a Memorandum of Understanding (MOU) to be negotiated by the Ministry and the Lambton Industrial Society.

BENEFITS OF REFORM:

The proposed reforms to air regulations would contribute to improved air quality and would result in a clearer, more efficient system of air quality management in Ontario:

- Consolidating 20 air regulations to 4 would clarify and simplify regulatory requirements. All provincial air standards would be placed into one regulation to establish a more consistent regulatory baseline.
- Changing the frequency of reporting from quarterly to annually under the acid rain regulations would result in 75% fewer reports being submitted — a significant saving to both industry and to the Ministry — with no loss in air quality.
- Reducing overlap and increasing coordination with the federal government in the areas of vehicles and fuels, ozone-depleting substances and air quality data reporting would provide more efficient government services and reduce costs to taxpayers while ensuring air quality.
- The new general air regulation would provide communities with practical tools to address more complex air quality issues in a manner that is cost-effective and sensitive to local air quality variances.
- Use of cooperative management approaches like Codes of Practice and Memoranda of Understanding allow regulated parties greater flexibility to respond to local air quality needs within provincial performance standards.

SUMMARY OF PROPOSED REFORM: AIR QUALITY





Approvals

Approvals are an essential tool of environmental protection. Each year, the Ministry issues over 8,500 approvals under the *Environmental Protection Act* (EPA) and the *Ontario Water Resources Act* (OWRA). In addition, some 22,000 septic system approvals are issued annually by local Boards of Health under Part VIII of the EPA, and 7,000 licences are issued annually under the *Pesticides Act*.

The diversity of projects currently requiring approval is vast. Today, projects requiring a Certificate of Approval (C of A) can range from a simple restaurant ventilation fan to construction of complex chemical or petrochemical plants.

Regardless of the scope or nature of project, the procedure for processing applications for approval is the same: an application must be submitted to the Ministry, where it is checked for completeness, posted on the Environmental Bill of Rights Registry (if applicable) and simultaneously reviewed. The intensity of review depends on the complexity of the project. Administratively, however, an application for a restaurant exhaust is processed in the same fashion as an application for a complex chemical plant. Ontario's broad legislative requirements often necessitate an approval for activities that have little or no environmental impact.

Reforms to the approvals process build on ideas introduced by stakeholders during the preliminary consultation phase. In proposing these new reforms, we want to:

- 1) Ensure continuance of existing standards of environmental protection;
- 2) Link requirements for obtaining Certificates of Approval to the predictability of environmental impacts; and,
- 3) Clarify municipal and provincial roles and responsibilities in the approvals process.

The reforms in this section are specific to those Certificates of Approval required by:

- Section 9 *Environmental Protection Act* — for emissions to the natural environment other than water (the majority are air emissions) from new or altered plants, processes, equipment etc.;
- Section 27 *Environmental Protection Act* — for waste management, including waste processing sites, transfer sites, landfills, etc. (note: specific reforms to Section 27 approvals are discussed in the Waste Management chapter of this report);
- Part VIII *Environmental Protection Act* — for subsurface sewage disposal systems (e.g. septic systems). Part VIII approvals are delivered primarily through local Boards of Health and Conservation Authorities; and,
- Section 52 and 53 *Ontario Water Resources Act* — for the construction or modification of water works and sewage works (including both municipal and private and industrial).

OPPORTUNITIES FOR REFORM

The approvals system affects virtually every sector of economic activity in Ontario. The length, cost and certainty of the approvals process is a key consideration in attracting and maintaining investment, stimulating new economic development and upgrading public infrastructure. By cutting red tape and removing unnecessary requirements in our approvals system, we can reduce overall costs to taxpayers, industry and municipalities and strengthen our focus on environmentally significant matters. These savings can then be directed to greater environmental protection, job creation and economic growth.

The following reforms will:

- reduce administrative and paper burden;
- promote more efficient and timely decisions;
- encourage voluntary pollution prevention;
- promote the development of new technology; and,
- evaluate the viability of single site approvals.

Using New Approvals Regulations

The Ministry is considering a number of activities for which the requirement for a Certificate of Approval is unnecessary for protection of the environment. These activities, while having negligible environmental impact, are currently subject to the full approvals process. The Ministry will need to introduce new regulation to eliminate the necessity to

obtain Certificates of Approval in these situations.

Eliminating these requirements is consistent with our commitment to focus on important environmental matters and to reduce cost to government and regulated parties. The Ministry is seeking comments on the examples given below as well as additional candidates for activities that could be taken out of the Approvals process without reducing environmental protection.

The existing powers under the *Environmental Protection Act* and the *Ontario Water Resources Act* can be used to remove the requirement for a Certificate of Approval for certain types of projects. The Government will only consider using this power for projects with insignificant or no impact on the environment.

To focus our efforts on environmentally important approvals, the Ministry proposes to:

- Remove unnecessary requirements for a Certificate of Approval for certain environmentally insignificant activities.

The following are examples of such activities:

- minor ventilation systems and service connections;
- relining and replacement of water-mains and sewers.

The Ministry is seeking comments on these and additional activities for which the requirement to obtain a Certificate of Approval could be removed, with minimal impact on the environment.

Using Standardized Approval Regulations

A "standardized approval regulation" specifies conditions to qualify for automatic approval without the requirement for a Certificate of Approval. This approach is known as "permit-by-rule" in other jurisdictions. This means our regulation establishes a standard environmentally-sound, safe method of engaging in certain projects. Companies who adopt the standard pre-approved method do not need separate approval for each individual project.

Powers to develop standardized approval regulations are currently limited to waste management approvals under Part V, EPA. Bill 57 has been introduced in the Legislature. It expands existing regulation-making powers under the EPA (Section 9 and Part VIII) and OWRA (Sections 52 and 53) to include standardized approval regulations.

Standardized approvals are appropriate for projects where emissions/discharges are predictable and environmental impacts are understood.

To streamline the approvals process, the Ministry proposes to:

- Designate certain projects/activities for standardized approvals regulations. Possible candidates for standardized approvals regulations include the following:
 - Minor modifications to existing approved facilities and equipment;
 - Comfort and process heating units; hospital sterilizers (EPA Section 9);
 - New water mains, sanitary sewers and storm sewers; spill containment and storm water management for existing electrical transformer stations and petroleum storage and distribution facilities - (OWRA Sections 52 and 53);
 - Projects that are subject to adequate conditions in other codes and approval processes (eg. building code); and,
 - Projects that are reviewed and certified by an independent accredited professional.

The Ministry is seeking comments on these and additional candidates for standardized approval regulations. The development of conditions for the standardized approval regulation will be subject to additional comment and notice on the Environmental Bill of Rights Registry.

Removing Barriers to Demonstration of New Waste Management Technologies:

Approval under Part V of the EPA is required for the demonstration of innovative or "green" waste management technologies. Proposed demonstration projects are subject to either a mandatory hearing under Section 30 or discretionary hearings under Section 32 of the EPA, or may be subject to discretionary hearings under the OWRA.

Proponents have questioned the merits of subjecting technology demonstrations to costly and time-consuming hearings. They have repeatedly expressed the need for a more streamlined mechanism to facilitate technology demonstration and commercialization.

Reforming the Fee Structure for Certificates of Approval:

Fees for issuance of a Certificate of Approval are currently calculated as a percentage of the capital costs of a project — up to a ceiling of \$100,000. The present fee structure does not reflect the true costs of processing an application. It is not linked to environmental performance and it can discourage new investment. Today, a company investing in new pollution control technology must pay for its Certificate of Approval, in an amount geared to the cost of the equipment. The more sophisticated and costly the technology, the higher the fee.

This approach not only discourages new environmental investment but also discourages the introduction of pollution prevention equipment, inhibiting

To encourage the development and commercialization of new green technologies, the Ministry proposes to:

- Enact regulations to remove hearing requirements under the EPA and OWRA for demonstration of new waste technology projects. To ensure the continued protection of the environment, a Certificate of Approval will continue to be required.

The Ministry is seeking comments on this proposal as well as suggestions for other incentives for demonstrating new technologies.

To encourage continuous improvement in pollution reduction beyond compliance requirements and to better link costs and complexity of approvals, the Ministry proposes to:

- Consult on the development of options for a revised fee structure for approvals which will contribute to better environmental protection and job-creating investment.
- Reform the present fee structure for Certificates of Approval through amendments to the Fees Regulations (Reg. 502/92 and 503/92).

The Ministry invites public comment on the options outlined in this paper and suggestions for other options to be considered.

improvements to environmental protection. Further, there is no incentive for applicants to reduce pollutant discharges beyond required levels or to adopt pollution prevention measures as opposed to end-of-pipe controls. The fee structure is an excellent example of how we must reform the system to ensure greater environmental protection while encouraging new job-creating investment.

The Ministry has identified a number of possible options for reform of the fee structure:

- A fee based solely on the complexity of the proposal and the amount of staff effort to issue the approval; this "Administrative Charge" approach could be based on full or partial cost recovery.
- A waiver or reduction in fees for pollution prevention activities that reduce contaminant/emission discharges below levels required by the Ministry.
- A refund if the application is not reviewed within a given period of time.

Using Single Site Approvals:

Because approvals are granted on a single media basis for individual projects, numerous air, water and waste approvals could be issued for a particular facility. We will evaluate pilot studies with industry to assess the broader issuance of single site approvals. The advantages of this single site certificate include:

- Integration of the conditions required under the EPA and the OWRA to **cover the entire facility** under the categories such as Operations and Maintenance, Performance, Monitoring, and Record Retention;
- Improved administrative efficiency for both government and industry, including reductions in paperwork; and,
- Better planning of pollution prevention due to assessment of all media within the site and a facility-wide picture of releases and prevention options.

To encourage pollution prevention and to streamline the approvals process, the Ministry proposes to:

- Establish pilot projects with industry to assess the feasibility of single-site approvals.
- Consult on the concept of single-site approvals and invite expressions of interest for pilot studies.

To encourage local involvement in the review and approval of local projects, the Ministry proposes to:

- Expand the Transfer of Review program to include approvals such as noise, odours, dust.
- Establish a pilot project with a municipality to assess the feasibility of further transfers.

We invite comments on this proposal, and further suggestions on the types of approvals that could be transferred to municipalities.

Encouraging Local Empowerment:

Many municipalities are currently involved in the Transfer of Review Program for certain types of sewer and water approvals under Sections 52 and 53 of the OWRA. Under this program the municipality conducts reviews of proposals and makes recommendations to the approving MOEE Director regarding issuance of a Certificate of Approval. Expansion of the Transfer of Review Program to include other types of approvals could make the approvals process more timely and responsive to local conditions and needs.

Reforming the Approvals Process for Private Sewage Systems

Local Boards of Health and Conservation Authorities issue approvals for private sewage systems. As noted earlier, over 20,000 of these approvals, which are required under Part VIII of the EPA, are issued annually. The *Sewage Systems Regulation* (Reg. 358) specifies the classification, construction and operation standards and the licensing requirements for septic tanks and other on-site systems. The

Ministry, together with stakeholders, will be carrying out a comprehensive review of the "Part VIII" program. This review will examine possibilities for program delivery, including the use of standardized approvals regulations to streamline the process.

At this time, the Ministry is seeking public input to:

- Identify problems, deficiencies and suggestions for improving the existing "Part VIII" approvals program and the related Sewage Systems Regulations (Reg. 358 and 359).

BENEFITS OF REFORM:

Approvals reform offers a continued level of environmental protection by focusing on environmentally significant activities while cutting barriers to economic growth, technological innovation and job creation.

- Use of exempting regulations and standardized approval regulations is expected to reduce the numbers of activities requiring formal Certificates of Approval by the Ministry by 20 to 40 percent, with no adverse impacts on the environment.
- Undertakings being considered for exemption are those with little or no impact on the environment; undertakings being considered for standardized approvals are those with predictable emissions or discharges where environmental implications are understood.
- The introduction of approval fee incentives will encourage regulated parties to go beyond minimum requirements using pollution prevention measures.
- Elimination of hearing requirements for demonstration of new environmentally-friendly or innovative technologies will remove a barrier to development of these technologies.
- Through pilot projects for single site approvals, we will demonstrate the potential for increased administrative efficiencies, reduced paper burdens, and improved planning for the Ministry and participating facilities.
- By clarifying provincial and municipal roles with respect to approvals and expanding the transfer of review program, more efficient and timely decisions will be made on locally relevant projects.

► Energy

The mission of the Ministry with respect to energy is to ensure a reliable and affordable energy supply and to encourage the conservation of energy. The Ministry's mandate is conveyed through three primary statutes: the *Power Corporation Act*, *Energy Efficiency Act* and *Ontario Energy Board Act*.

Electricity Sector Restructuring

The statutory powers and governance of the electricity sector in Ontario reflect the long history of public power in the Province of Ontario. Ontario Hydro was created in 1906 as a publicly-financed commission to generate, transmit and sell electricity in Ontario.

The *Power Corporation Act* (PCA) sets out the role, mandate and authority of Ontario Hydro. Ontario Hydro's mandate is to supply electricity and related energy services "at cost" to individual users, companies and municipal utilities. The Act permits municipal electric utilities to be established and sets out the relationship between these utilities and Hydro. The PCA places responsibility for the business affairs of Ontario Hydro under the control and direction of a Board of Directors appointed by the Government of Ontario.

While the PCA and regulations have served Ontario well in the past, many stakeholders argue that the electricity sector in Ontario now needs to be restructured to ensure future competitiveness.

OPPORTUNITIES FOR REFORM:

North America's electricity industry is undergoing immense change. Ontario Hydro faces increasing competitive pressures from all around the Great Lakes Basin and from the northeastern continental transmission grid. In November 1995, the Government established the Advisory Committee on Competition in Ontario's Electricity System to study the issues, consult with stakeholders and consumers, and to make recommendations for achieving a safe, reliable and affordable electricity system that can meet the competitive challenges of the future.

The Advisory Committee's report "A Framework for Competition" was released in June 1996. The report makes recommendations to the government on structural, legislative, regulatory and ownership reforms necessary to develop a more competitive electricity system in Ontario. Over the summer the Ministry will continue to consult with consumers and industry stakeholders to determine how best to proceed with changes to the electricity system in Ontario. Consideration of changes to regulations under the PCA will be made in this parallel consultation process.

Regulation under the Ontario Energy Board Act

The Ontario Energy Board (OEB) regulates the gas utilities in Ontario, as required by the *Ontario Energy Board Act*. It sets the rates to be charged by the utilities for the sale, transportation and storage of gas, and regulates the construction of facilities and the extension of gas service to new areas. All Ontario utilities and their owners, as a condition of sale, sign undertakings with the government relating to matters such as affiliate transactions, diversification activities and appropriate equity capital to protect the interests of utility customers.

The *Ontario Energy Board Act* defines the composition, duties and procedures of the OEB. It gives the OEB jurisdiction in a number of areas, most of which relate to the regulation of the natural gas industry in Ontario. The Act prohibits takeovers and amalgamations of gas utilities and the sale of utility assets without prior public hearings, OEB recommendations and approval of Cabinet.

At present, there are three administrative regulations consolidated under the *Ontario Energy Board Act: General* (Reg. 869), *Rules of Procedure* (Reg. 870), and *Uniform System of Accounts* (Reg. 702). An additional regulation (Reg. 188/93) temporarily exempted Ontario Hydro from the requirement for public review of changes in rates.

OPPORTUNITIES FOR REFORM:**Updating OEB Regulation**

Recent amendments allow the OEB to function more efficiently and streamline its administrative procedures. The Ministry is currently investigating legislative amendments that would allow the Board to use, where appropriate, incentive mechanisms to set rates for gas utilities.

The OEB has conducted preliminary stakeholder consultation on Ontario's natural gas market structure. Mechanisms are being explored for streamlining regulation and improving the natural gas market in Ontario.

Several sections of Regulation 869 of the OEB Act (3 to 6, 8 to 15 and 15.2 to 15.4) exempt specific historical transactions from Section 26 of the Act. These transactions are typically changes in ownership, amalgamations or sales of gas utility assets for which the expense of an OEB hearing was not justified. A number of these transactions are now complete and the exemptions are obsolete. Since they were never removed, the exemptions serve only to clutter and confuse the purpose of the Reg. 869.

Following consultations with the gas utilities, Ontario Hydro, other applicants, and intervenors in its proceedings, the OEB is revising its *Rules of Procedure* (Reg. 870). Due to changes in the *Statutory Powers Procedure Act*, it

is now possible for the OEB to make its rules without a regulation. The OEB intends to revise its rules under the *Statutory Powers Procedure Act* by mid-1996, at which time Regulation 870 will no longer be necessary and will be revoked.

Following consultations by OEB with affected utilities, the *Uniform System of Accounts Regulation* (Reg. 702) is now being revised. The new regulation incorporates new accounting methods and brings requirements up-to-date with deregulation and new initiatives in the natural gas industry. No further changes are contemplated at this time.

Consolidation of OEB Act administrative regulations would make them simpler to understand and administer.

Regulation 188/93 (*Ontario Hydro Exemption*) exempted Ontario Hydro for a limited period of time from *Ontario Energy Board Act* requirements for public review prior to changes in its rates or charges. The powers of the regulation lapsed in 1994 and the regulation is now obsolete. Ontario Hydro is now subject to normal hearing requirements.

To ensure the currency and clarity of OEB Act regulations, the Ministry proposes to:

- Remove all obsolete exemptions under the OEB General Regulation (Reg. 869) relating to transactions that have been completed.
- Revoke the redundant OEB Rules of Procedure Regulation (Reg. 870), once the OEB exercises its rule-making powers under the *Statutory Powers Procedure Act*.
- Consolidate the remaining two OEB Act regulations (Regs. 869, 702) into one regulation.
- Revoke the obsolete Ontario Hydro Exemption Regulation (Reg. 188/93), since its powers have expired and it is no longer necessary.

Energy Efficiency Regulations

The *Energy Efficiency Standards Regulation* (Reg. 82/95) under the *Energy Efficiency Act*, sets out minimum efficiency levels and compliance requirements for 40 products and appliances. The standards are nationally recognized documents developed over the last six years using technical committees composed of manufacturers, utilities, retailers, consumer groups, and federal and provincial governments.

OPPORTUNITIES FOR REFORM: Maintaining Consistent and Up-To-Date Energy Efficiency Standards

Traditionally, for most appliances, inexpensive models with relatively high operating costs have dominated the marketplace. But the higher initial cost of a more efficient model is more than offset by lower operating costs. By avoiding models that waste energy and by choosing efficient alternatives, consumers save hundreds of dollars in energy costs over the lifespan of the product.

Under the *Ontario Energy Efficiency Act*, the government sets minimum efficiency levels for products sold and/or leased in the province. This ensures consumer protection, reduced energy costs and reduced environmental impacts in the form of decreased

pollution and a lower contribution to global warming. For the benefit of Ontario consumers and manufacturers, these standards must be kept technically up-to-date and consistent across jurisdictions.

For some reason, at the time Regulation 82/95 was established, the obsolete Water Heaters Regulation (Reg. 933) was not revoked. We will correct the situation and eliminate the confusion.

To maintain consistent and up-to-date energy efficiency standards, the Ministry proposes to:

- Amend the *Energy Efficiency Standards Regulation* (Reg. 82/95) to add minimum efficiency standards for gas-fired room heaters, wall furnaces and fireplaces; and for fluorescent lamps that are primarily for use in area lighting.
- Amend the *Energy Efficiency Standards Regulation* (Reg. 82/95) to update existing standards for three products: electrically heated storage water heaters; parking lot and area dusk-to-dawn lighting; and for cobra-head type roadway lighting.
- Revoke the *Water Heaters Regulation* (Reg. 933) since it is now obsolete.

BENEFITS OF REFORM:

Updating the regulations under the *Ontario Energy Board Act* will make them clearer and more consistent with current accounting practices. The Board will have greater flexibility in making adjustments to its rules of procedure.

Adding new products and updating existing products under the *Energy Efficiency Act* will result in lower energy consumption. Appliances and power plants will release less pollution and contribute less to global warming caused by the greenhouse effect.

Updating Ontario's energy efficiency standards to be consistent with other jurisdictions provides a level playing field for all manufacturers.

All users of energy-efficient products including the public, the business and commercial sectors gain in reducing the long-term energy costs of operating their appliances and equipment.

► Environmental Assessment

The *Environmental Assessment Act* (EAA) ensures the consideration of a broad range of environmental effects, (bio-physical, social, cultural, technical and economic) in the planning and development of public projects, such as roads, sewage treatment plants, hydro corridors and landfill sites. The EA process considers community values, stakeholder knowledge and public opinion before projects are approved.

The Government recently undertook to modernize and strengthen the environmental assessment process by introducing reforms that will better protect Ontario's environment while making the *Environmental Assessment Act* less costly, more timely and more effective.

Introduced to the Legislature on June 13, 1996, Bill 76 outlines amendments to the *Environmental Assessment Act* that respond to recommendations made over the years by municipal and private sector proponents and public interest groups.

Scheduled to take effect by early 1997, the amendments include:

- Guaranteed early public access to ensure proponents consult all affected parties from the earliest stages of the process. A mediation process will ensure that issues are identified and resolved early on.
- Early and clear direction for stakeholders on the kind of information to be included in EA documents to provide more certainty.

- Strict timeframes to be imposed up front for all key steps in the decision-making process.
- Harmonization of Ontario's environmental assessment process with federal legislation to ensure one project, one process.
- Housekeeping amendments that will, among other things, enshrine in legislation the highly efficient class environmental assessment process.

Regulations 334 (*Environmental Assessment — General*) and 345 (*Private Sector Developers*) define projects subject to the Act. In addition to public sector projects (e.g. Ontario Hydro, municipal and provincial), certain private sector projects — for instance road, water or wastewater projects servicing residential development — must meet the requirements of the Act.

Regulation 335 describes the Rules of Practice for the Environmental Assessment Board. The Board is a quasi-judicial body that makes decisions on EA proposals. The intent of the rules is to provide a fair, open and understandable process for public participation at hearings and to provide guidance to the Board on its statutory mandate during a hearing process.

In addition to the regulations described above, there are several hundred individual regulations that exempt specific projects (e.g. minor road reconstruction) from EA requirements, subject to certain conditions. The use of Class EA planning processes for a large number of projects has reduced the need for exemptions under the

EAA and the number of exemption requests granted. In addition, 20 regulations designate specific private sector projects as subject to the Act. These regulations have been obsolete for some time but were never removed. We will correct this.

REFORMS IN PROGRESS:

No new reforms are being proposed to EA regulations in the current review process. However, the following changes are now underway. Under Regulation 334 it can be difficult to determine if a project is subject to environmental assessment. To address this problem, the Ministry will place a draft revised regulation on the EBR Registry in the Fall of 1996.

Participants in recent EA Board hearings under Regulation 335 have expressed concerns about the hearing and decision process. Some issues include: timeliness of decisions, cost of hearings and scope. The Board has responded to these comments by preparing new "rules of procedure", to be placed on the EBR Registry in the Fall of 1996.

These types of "housekeeping" oversights are confusing and wasteful of participants' time and money. This government is committed to taking immediate action to ensure that these problems are corrected.

To continue to improve Ontario's environmental assessment process, the Ministry is currently proceeding with the following reforms:

- Revoke 315 obsolete Exemption Regulations.
- Release the revised General EA Regulation.
- Draft new "Rules of Procedure" under the *Statutory Powers Procedure Act* and subsequently revoke the Environmental Assessment Board's regulation (Reg. 335) describing their rules of practice.

BENEFITS OF REFORM:

These changes clarify the requirements and the process. They will lead to better service to Ministry clients and greater efficiency for proponents, stakeholders, Board members and MOEE staff.

► Environmental Bill of Rights

The Environmental Bill of Rights (EBR) requires specific Ministries to develop Statements of Environmental Values (SEV) and consider these SEVs in all decisions that may affect the environment. Ministries must also list proposed environmentally significant Acts, regulations, policies and prescribed instruments on the EBR Registry. The EBR provides for the appointment of the Environmental Commissioner who reports to the Legislature. The Act allows the public to request review of past decisions, provides individuals with rights to sue for environmental damage to public resources, and provides protection for employees who report environmental damage in the workplace.

OPPORTUNITIES FOR REFORM:

There are two EBR regulations. Regulation 73/94 prescribes the application of the EBR to Ministries and certain Acts. Regulation 681/94 classifies MOEE instruments subject to the Act.

Streamlining Notices on the EBR Registry

Approximately 2,500 notices of proposals were placed by the Ministry on the EBR Registry last year. These notices cover a wide variety of instruments ranging in significance from approvals for small ventilation systems to

approvals for large industrial facilities. Many of the approvals instruments are for small projects with little or no environmental impact. We have heard from environmental groups that the large number of instruments placed on the registry obscures matters of environmental significance, making it difficult to identify and focus on major projects.

Acting on these groups' concerns, the Ministry is proposing to delete proposals for certain environmental decisions from EBR Registry notice requirements. Candidates for deletion have been identified based on the level of public interest, the potential environmental significance of the activity, and the purpose of the instrument (e.g. Certificates of Approval). After 18 months of experience with the EBR, the following activities have been identified for possible deletion:

- Under Section 9 of the Environmental Protection Act (Air):
- some type of ventilation equipment (see Technical Annex)
 - hospital sterilizers
 - equipment used during fire fighting exercises and training
 - prescribed burns for forestry control
 - composting operations
 - spray irrigation, snow-making and skywriting

- exhaust systems for battery charging operations
- pressure relief valves and emergency rupture disks
- some laboratory exhausts
- pilot tests and demonstration projects.

Under Section 27 of the Environmental Protection Act (Waste Disposal Sites):

- operation of household hazardous waste collection activities that do not exceed 12 days per site per year (revise current requirement).

Under Regulation 914 of the Pesticides Act:

- pesticides containing new active ingredients — since the federal government is implementing equivalent public consultation at a national level.

The notices suggested for removal as part of this amendment have minimal impact on the environment or have thus far elicited little public interest. We expect these reforms to result in fewer notices being placed on the Registry. Changes resulting from Approvals Reform may further reduce the number of proposals to be placed on the Registry, as well as administrative costs.

To focus public consultation efforts on environmentally significant proposals and to update regulations, the Ministry proposes to:

- Amend the EBR Classification of Instruments Regulation (Regulation 681/94) to remove notice requirements for proposals having little or no environmental impact or for which there is no expressed public interest.
- Amend the EBR General Regulation (Reg. 73/94), to reflect the renaming of Ministries and Acts (administrative amendment).

BENEFITS OF REFORM

The proposed amendments to Regulation 681/94 are designed to streamline administrative requirements by reducing unnecessary notices, and improve public consultation by confining notice requirements to matters of environmental significance. As a result of these proposals, the number of notices placed on the registry for public comment would be reduced by 150 per year. When combined with changes under the Approvals Reform, it is anticipated that the number of irrelevant proposals placed on the EBR Registry would be reduced significantly. The removal of less significant instruments would reduce "clutter" on the Registry — allowing users to focus attention on environmentally significant proposals.

► Niagara Escarpment

The Niagara Escarpment Plan expresses the Province of Ontario's commitment to "provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment". It is one of only six regions in Canada to receive international recognition through the UNESCO World Biosphere Reserve Designation.

The *Niagara Escarpment Planning and Development Act* (NEPDA) established the Niagara Escarpment Commission (the Commission) and gave the Commission the mandate to develop and administer the Niagara Escarpment Plan.

Regulation 827, enacted in 1974, defines the "Planning Area" of the Niagara Escarpment Plan. Regulations 826 and 828 require parties with proposals for development on the Niagara Escarpment to obtain a permit. Regulation 828 "*Development within the Development Control Area*" defines development subject to permit requirements.

OPPORTUNITIES FOR REFORM:

The Ministry has reviewed Regulations 826 "*Designation of Area of Development Control*", 827 "*Designation of Planning Area*" and 828 "*Development within the Development Control Area*". The Ministry and the Niagara Escarpment Commission are committed to ensuring the efficient administration of the Niagara Escarpment Plan.

MOEE welcomes comments on how this could be done.

Pesticides

Pesticides are registered for use in Canada by the Pest Management Regulatory Agency administered by Health Canada. Like other provinces, Ontario is responsible for regulating post-registration use, storage, transportation and disposal of pesticides under the authority of the *Pesticides Act* and Regulation 914 — *General Pesticides*.

To regulate pesticide use, the Ministry classifies pesticides to ensure that only trained and licensed exterminators or certified growers can apply more toxic pesticides. Safer pesticides can be used by homeowners. The Ministry also requires a licence for operators of pest control businesses and vendors who sell pesticides.

In addition to its licensing requirements, the Ministry uses other regulatory measures to minimize adverse impacts of pesticide use on human health and the environment. For example: permits are required for the fumigation of buildings and other high risk uses; licensed exterminators must notify the public when pesticides are applied in urban areas and on public lands; and, proper procedures must be used when dealing with pesticide spills and clean-ups.

The Ministry encourages reduced pesticide use by promoting alternative methods, including the use of integrated pest management approaches (IPM). IPM reduces the number of

pesticide applications (spraying at regular intervals) by monitoring pest populations and using pesticides only when pest populations reach a critical level.

OPPORTUNITIES FOR REFORM:

The Ministry is proposing changes in the following areas to ensure the safe use of pesticides to protect our health and the environment, to encourage IPM approaches and reduced pesticide use, and to eliminate requirements with no environmental or health benefits.

Simplifying Licensing and Upgrade Training Requirements

As part of its provincial mandate, the Ministry is responsible for the training and licensing of commercial operators, vendors and exterminators which total about 33,000 licensees in Ontario. The current system of pesticide licences is complex and includes about 53 types of licences. There are no requirements for exterminators to undergo retraining to ensure their knowledge stays current after they become licensed and there are no provisions for unlicensed assistants to take training.

Under Regulation 914, operators of pest control businesses are required to obtain liability insurance. Current insurance requirements are based on the type of pest control business and are more complex than necessary.

To simplify the pesticide licensing system and upgrade exterminator training requirements, the Ministry is proposing to revise Regulation 914 to:

- Reduce the number of types of pesticide licences from 53 to 15.
 - Introduce recertification every five years for licensed exterminators and add new requirements for unlicensed assistants to take basic health and safety training.
 - Simplify insurance requirements for operators and require a minimum of \$1 million in comprehensive third party liability for all pest control businesses.
- In addition, the Ministry will:
- Upgrade training material for pesticide exterminators to harmonize with new national training standards.

These proposed changes are consistent with newly developed national standards for pesticide training and licensing which are being implemented in other provinces across Canada. Extensive consultation has already been conducted on these proposed changes and a notice was placed on the EBR Registry in October 1995.

Promoting Environmentally Safe Pesticide Practices

Regulation 914 specifies the procedures for disposing of empty pesticide containers. Empty pesticide containers that held the more toxic pesticides (Schedule 1, 2 and 5 pesticides) must be punctured or

broken to prevent them from being reused and then buried away from any watercourse or water table. Empty pesticide containers that are either paper or cardboard may be burned provided that people and animals are not exposed to the smoke.

In 1992, Ontario established a pesticide container recycling program. This program is a partnership of industry, growers and government and has resulted in the collection and recycling of over 1 million empty pesticide containers since the program was introduced. The plastic containers are recycled into agricultural products such as fence posts; the metal containers are turned into reinforcement bars for use in construction. In 1996 over 150 pesticide vendors will be collecting empty pesticide containers from farmers and licensed exterminators for recycling. Regulation 914 should be amended to make it more supportive of Ontario's current pesticide container recycling program.

In 1990, the Ministry introduced requirements to reduce the risk of urban pesticide use. Under Regulation 914, licensed exterminators who apply pesticides on residential properties or on public lands must notify the public

that pesticides have been used. In recent years, licensed exterminators have been using IPM approaches to reduce pesticide use especially at golf courses. The current requirements for public notification do not accommodate IPM practices.

The use of certain, more toxic pesticides requires that the exterminator be licensed and obtain a special use permit. Under Regulation 914, for example, a permit is required for licensed exterminators to use fumigants and to apply specific pesticides by aircraft. Permits are also issued in some situations where a licence is not required (e.g. cottage owners using pesticides to control aquatic weeds) and the permit sets out the specific conditions for the use of the pesticide. About 1,600 permits are issued annually. The Ministry is proposing to examine permit requirements and to remove permit requirements for pesticide uses that pose little environmental risk.

Several sections of Regulation 914 deal with the use of older pesticides that are no longer available. Other sections pertaining to the use of fumigants need to be consolidated and clarified.

To promote environmentally sound pesticide practices, the Ministry is proposing to:

- Replace sections in Regulation 914 that require burial of pesticide containers with new requirements to recycle empty commercial and agricultural plastic and metal pesticide containers.
- Simplify public notification requirements to encourage IPM programs and reduced pesticide use.
- Remove permit requirements for pesticide applications that pose little environmental risk.
- Eliminate those sections of Regulation 914 dealing with the use of older pesticides that are no longer available.
- Consolidate and clarify sections of Regulation 914 controlling the use of fumigants.

Harmonizing Pesticide Classification Systems

Some provinces, including Ontario, use a classification system as a basis for regulating the sale, use, storage, transportation and disposal of pesticides. About 300-350 new pesticide products are classified each year by the Ontario Pesticides Advisory Committee. Depending on toxicity, persistence and percentage of active ingredient, each new pesticide is assigned to one of six schedules which limit who can sell or use the pesticide.

All pesticides containing new active ingredients must be listed on the Environmental Bill of Rights Registry for 30 days. This provides a mechanism for public comment and gives the public notice of new pesticides classified in Ontario. In 1995, the Ministry listed about 15 pesticides containing new active ingredients on the Registry. Recently, the federal government has initiated an equivalent national process of public consultation on pesticide registration decisions which will maintain or enhance existing environmental safeguards.

To accelerate access to new and safer pesticides, the Ministry proposes to:

- Eliminate the requirement for listing pesticides with new active ingredients on the EBR Registry.
- Replace the provincial pesticide classification system with a new national pesticide classification system which would be implemented at the federal level.

BENEFITS OF REFORM

The Ministry's proposed regulatory changes would ensure that pesticides are applied in a safe and responsible manner without causing adverse effects on health and the environment.

- Reducing the types of licences in the Province's pesticide licensing system would provide a system that is more comprehensible to Ministry clients and would reduce paper burden for both the Ministry and clients.
- Upgrading training requirements would ensure that all pesticide applicators and their assistants are trained to use pesticides safely and are continually updated on new safer pest management methods. This would improve protection of the environment and provide consistency with newly developed national standards.
- The proposed permit reductions would reduce administrative burden and encourage the use of safer, non-toxic pesticides while ensuring that the more toxic pesticides are fully regulated.
- By eliminating the requirement for burial of empty commercial and agricultural pesticide containers, and requiring their recycling, the Ministry is supporting existing pesticide container recycling programs and safer handling of containers.
- Replacing the provincial pesticide classification system with a new national system and eliminating EBR Registry requirements for pesticides with new active ingredients would reduce administrative load for the province and accelerate access to new and safer pesticides for growers and other users in Ontario.
- Changes to liability insurance requirements would meet industry's needs for affordable insurance while maintaining third party liability protection.



Spills

Part X of the *Environmental Protection Act* (EPA) imposes certain duties on persons who cause a spill or are in control of a material that is spilled. In addition to containing and cleaning up the spill, they must also report the spill to the Ministry, the municipality and the owner of the material spilled. The *Spills Regulation* (Reg. 360) defines the duties and rights of parties subject to Part X. The regulation exempts certain types of environmentally insignificant spills from the reporting requirements or, in certain instances, all provisions of Part X.

OPPORTUNITIES FOR REFORM:

Focusing Effort on Environmentally Significant Spills

The Spills Regulation has been successful in mitigating the effects of spills on the environment and human health. However, lack of clarity in the wording of the regulation has meant that some spills are being reported even though they have little or no environmental effect. This situation creates an unreasonable administrative burden for the regulated industries and for the Ministry.

The number of insignificant spills that must be reported to the Ministry could be reduced without compromising environmental protection by establishing clearer requirements and procedures in the *Spills Regulation* (Reg. 360). These changes need to be carefully

To focus the efforts of regulated parties and the Ministry on environmentally significant spills, the Ministry proposes to:

- Revise the *Spills Regulation* (Reg. 360) to better organize and simplify language; and to clarify the spills reporting exemption to eliminate trivial and frivolous reports and ensure that only environmentally significant spills are reported.

In addition, the Ministry will:

- Encourage industry to base their estimates of reportable spill quantities in contingency plans on an assessment of the likelihood of adverse environmental effects.

worded so as not to change the environmental protection effects of the regulation.

BENEFITS OF REFORM:

The proposed reforms would allow the Ministry and regulated parties to focus on environmentally significant spills and remediation.

A better organized regulation with clearer requirements would lead to less regulatory burden, greater certainty, and more reliable interpretation.

By eliminating the requirement to report trivial spills (e.g. paint can knocked over in workshop), focusing on reporting and inspecting only environmentally significant spills would reduce the number of reports by approximately 20%, from about 5,000 annually to about 4,000.

Training, Certification, Licensing and Accreditation (TCLA) Regulation

Education and training is increasing in importance as a tool of environmental protection. By setting the standards for training, certification and licensing, the Ministry ensures that individuals and companies have the requisite skills and knowledge to carry out activities such as pesticide application and dry-cleaning in a manner which minimizes risk to human health and safety and protects the environment.

Training, certification, licensing and accreditation (TCLA) are tools that the Ministry can use to advance its overall mission cost-effectively. We recognize the importance of these forms of program delivery and will continue to encourage these activities.

The Ministry is proposing to develop an overall policy that will guide all training, certification, licensing and accreditation activities. This policy will be supported in regulation by introducing new measures to accredit, certify, and license third parties. One possible method of implementing this policy is through a new TCLA regulation, which would streamline and clarify regulatory requirements.

The following table provides a visual example of the range of Ministry regulations requiring training, certification, licensing or accreditation.

TYPE OF REGULATION REQUIREMENT	EXAMPLES
I Training	<ul style="list-style-type: none"> • Dry Cleaners Regulation (323/94) • Driver Training Requirements (in 347)
II Certification	<ul style="list-style-type: none"> • Water and Sewage Plant Certification (435/93) • Well Drillers Regulation (903) • Refrigerants Regulation (189/94) • Pesticide Applicators Training (914)
III Licensing	<ul style="list-style-type: none"> • Pesticide Applicators Training (914)
IV Accreditation	<ul style="list-style-type: none"> • Halons Regulation (413/94) • Gasoline Volatility (271)

OPPORTUNITIES FOR REFORM

Ministry TCLA requirements have been successful in promoting consistently high standards of environmental protection and accountability. Broader application of these tools offers an opportunity to further improve environmental management, particularly for organized sectors with consistent and well-defined training needs. The expanded use of TCLA also permits greater participation by third parties such as the private sector and educational institutions in the development and delivery of these training, licensing and certification services.

The distribution of current Ministry training requirements across a number of different issue-specific regulations has made the development of a consistent baseline standard for training and

To streamline the process for delivery of training, certification, licensing and accreditation activities and to facilitate implementation of new requirements, the Ministry proposes to:

- Create a new TCLA regulation which would assemble requirements from existing regulations and develop a framework for future initiatives. This may result in replacement of existing regulations (e.g. Dry Cleaners Reg. 323 and Water Works and Sewage Works Reg. 435).

The regulation would define standard requirements for all training, licensing, certification and accreditation; and enabling powers for third party delivery of these services.

accreditation more difficult. The proposed changes will facilitate new training applications, such as accreditation of licensed site professionals for decommissioning contaminated lands.

A single regulation that sets out clear and consistent baseline standards for the development and delivery of environmental training and accreditation would provide a solid basis for expanded use of this tool.

BENEFITS OF REFORM:

The establishment of a new Training, Certification, Licensing and Accreditation Regulation would provide the following benefits:

- Bringing core TCLA requirements into a single regulation would improve consistency in training and accountability standards.
- Enabling third party delivery of TCLA activities would expand training capabilities in the province, leading to greater dissemination of environmentally sound practices and reduced costs to government.
- The expansion of TCLA activities would lead to more direct participation and greater commitment from industry and other parties in environmental protection.

► Waste Management

The goal of the Ministry of Environment and Energy's waste management program is to encourage practices in Ontario that:

- Promote effective and efficient 3Rs (reduction, reuse, recycling) programs in municipalities and industrial, commercial and institutional enterprises; and,
- Ensure that wastes, once disposed, do not pose a danger to the ecosystem or human health.

To achieve this goal, the Ministry has developed a comprehensive regulatory program. Regulation 347 (*General — Waste Management*), created in 1970, is the major regulation governing the management of hazardous and non-hazardous wastes. The objective of Regulation 347 is to prevent environmental damage and human health risks that could result from improper waste management practices. The regulation sets out requirements for handling, storing, managing and disposing hazardous and non-hazardous wastes.

In 1985, amendments to Regulation 347 introduced the "cradle-to-grave" concept of managing hazardous and liquid industrial waste. These amendments included improved definitions, generator registration requirements and an expanded manifest system to track movements of these wastes.

In addition to Regulation 347, thirteen other Ministry regulations pertain to waste management. These regulations address:

- PCB (polychlorinated biphenyl) management requirements, including storage, transportation and the establishment of mobile destruction facilities (Regulations 352 and 362);
- Standards for the location, maintenance and operation of deep well disposal sites for liquid industrial wastes (Regulation 341);
- Municipal recycling and composting requirements (Regulation 101/94);
- Requirements for major industrial, commercial and institutional enterprises to implement source separation programs, perform waste and packaging audits and develop waste and packaging reduction workplans (Regulations 102/94, 103/94 and 104/94);
- Requirements limiting the allowable types of "disposable" containers for milk (Regulations 344 and 345);
- Container requirements for carbonated soft drinks (Regulations 340 and 357); and,
- Area specific requirements for the disposal of hauled liquid industrial wastes and sediments from dredging the Toronto Harbour (Regulations 348 and 342).

OPPORTUNITIES FOR REFORM

The Ministry has identified several areas where regulatory requirements for waste management can be modified to improve environmental protection and make waste management practices more efficient. For a more detailed description of these reform proposals, please see the "Technical Annex" to this document.

Tailoring Approval Requirements to Risk:

In waste management regulations there is a lack of consistency between technical standards, approval requirements and the potential environmental risk of a proposed activity. For example, there are over two pages of standards for a retailer who takes used motor oil from an individual car owner for recycling, while landfill site standards cover about half a page.

Building on the existing system, waste facility approvals could be classified in relation to their level of risk. Classes of approval could be as follows:

Class I

Includes facilities that pose significant environmental risk such as hazardous and municipal waste landfill and incinerator sites. These would require full approval under the *Environmental Protection Act* and, where required, the *Environmental Assessment Act*. Full public hearings would be available to address outstanding concerns.

Class II

Includes facilities that pose a level of risk that can be addressed through the technical requirements of the *Environmental Protection Act*, such as large composting sites. Discretionary hearings would address technical issues.

Class III

Includes facilities where there is significant experience with both operations and impacts. These would receive a standardized approval (formerly permit-by-rule). Class III facilities would include an indoor municipal waste transfer station, small composting sites, household hazardous waste depots, and mobile hazardous waste processing sites. Such facilities would be deemed to be operating with a Ministry Certificate of Approval provided the standards in the regulation are met. Where the standardized approval requirements are/can not be met, a Certificate of Approval (Class II) must be obtained.

Class IV

Includes facilities where there are limited environmental impacts, or the impacts are addressed through other EPA provisions such as air or water approvals. These would be exempt from waste requirements. Class IV facilities could include sites receiving "Recyclable Material", on-site treatment of waste and inert fill sites.

A more complete listing of the facilities being recommended for each class of approval are provided in the Technical Annex.

To introduce greater consistency and order within the existing system, the Ministry proposes to:

- Designate standards and approval requirements according to four classes of facility, based on potential environmental risk.

Setting Clear Standards

The establishment of clear standards will enhance certainty and accountability in Ontario's waste management system. For example, the Ministry's incinerator guideline, released in December 1995, sets emission limits and operating parameters for new municipal waste incinerators taking into account recent advances in emission control technologies.

In addition, the lack of comprehensive landfill standards has been cited by municipalities and the waste management industry as a major irritant in the approvals process. Although the current movement is to performance standards, landfill impacts (unlike end-of-stack (air) or end-of-pipe (water) impacts) are not immediately measurable. Certainty of prescriptive standards for landfill sites is vital for long-term environmental protection.

To provide clear direction for waste management, the Ministry recently released for public comment:

- Comprehensive and specific standards for the design and operation of landfills.

Improve Definitions to Promote Diversion and Recycling

Current knowledge of the environmental impacts of various wastes now means that more precise definitions can be developed to identify waste streams which can be safely diverted or recycled.

The current definition of "recyclable material" in Regulation 347 was developed in a cautious manner in the early days of recycling. The definition was made at that time to restrict exemption from approval requirements to bona fide recycling operations. It is now too restrictive for the growing recycling industry.

The proposed definition distinguishes between municipal and hazardous recyclable materials to reflect differences in environmental hazard. The new definition will more clearly define the use of waste as a raw material in manufacturing processes and will be broadened to include a list of wastes and processes recognized as recycling activities. More detail on the proposed definition is presented in the Technical Annex.

The "inert fill" definition was originally intended to allow clean soil, rock or like materials to be used as fill. The definition did not, however, envision the diversity of materials that could be safely used as fill. To provide clear directions and to preserve needed landfill capacity, the Ministry proposes to introduce five categories of fill based on risk and acceptable uses. Categories will be consistent with

the Ministry's recently released *Guideline for Use at Contaminated Sites in Ontario*.

The current definition of "agricultural waste" in Regulation 347 does not include agricultural wastes that are not generated on a farm. Since defined agricultural wastes can be directly applied on land in agricultural production, this omission results in waste unnecessarily going to landfill.

The Ministry is proposing amendments to expand the definition to include the following off-site farm activities: animal waste from a fair or racetrack; aquaculture waste; field crop waste; and fruit and vegetable waste from food packing, processing or storage and distribution. The revised agricultural waste definition would exclude hazardous and liquid industrial wastes.

The current definition of "waste derived fuel" is outdated. To support greater diversion of waste from landfills and to be consistent with incineration as a disposal option, the Ministry is seeking public comment on expansion of the definition of "waste derived fuel" to include non-hazardous solid wastes such as tires and clean wood waste. The definition would be further clarified by replacing the reference to fuel quality in the current definition with a more specific thermal energy value.

To promote diversion and recycling, the Ministry proposes to:

- Revise the definition of "recyclable material" to encourage new approaches to reuse and recycling.
- Introduce five categories of fill based on risk and acceptable uses.
- Expand the definition of "agricultural wastes" to include a number of off-site farm activities and exclude hazardous and liquid industrial waste.
- Seek comment on expanding the definition of "waste derived fuel" to include non-hazardous solid wastes and to specify thermal energy value requirements.

Simplifying Regulation and Increasing Waste Management Efficiency

Several waste regulations impose significant administrative requirements on both the Ministry and its clients. The Ministry's experience now suggests that some of these requirements can be reduced without affecting environmental protection. Other regulations are obsolete or can be simplified.

To promote clarity and consistency, the Ministry proposes to consolidate all of its waste management requirements into one regulation. Consolidation also addresses the concern of many stakeholders that multiple regulations are confusing. It has been the Ministry's experience

that a major contributor to non-compliance on the part of waste generators and handlers has been confusion regarding Ministry requirements.

The Ministry proposes to incorporate the *Deep Well Disposal Regulation* (Reg. 341) requirements into the revised general regulation. Regulation 341 regulates deep well disposal sites primarily used for the disposal of liquid wastes from oil and gas exploration. Current requirements would be revised to eliminate the fee schedule, add definitions to clarify requirements and amend the oil field brine exemption so brine is no longer exempt from the *Environmental Protection Act*. Oil field brine would not be subject to waste requirements if it is regulated under the *Petroleum Resources Act*.

Currently movement of hazardous waste is subject to both federal and provincial manifest requirements. The Ministry proposes to bring Ontario's definition of "hazardous waste" in Regulation 347 in line with regulations under the federal *Transportation of Dangerous Goods Act* and the *Canadian Environmental Protection Act*. Harmonizing with the federal definition would simplify the paperwork required when moving hazardous wastes across the nation. Harmonization will also reduce the number of wastes the Ministry tracks since the federal definition does not include non-toxic liquid industrial wastes such as landfill leachate being transported to a municipal sewage treatment plant.

Currently, each and every load of hazardous waste requires a 6-copy Manifest Form to accompany the load, regardless of quantity. If a truck picked up 50 small loads at different locations, 50 separate manifest forms would be filled out and submitted to the Ministry by both the generators and the receiver. This results in over 350,000 copies being submitted to the Ministry each year, a situation that needs to be rectified.

The Ministry proposes to establish a simplified tracking form for small quantities of waste. This form would be kept on board the transportation vehicle and retained by the hauler. Summaries of the types of wastes and destinations would be submitted to the Ministry on a quarterly or semi-annual basis.

Ontario's PCB management regulations were developed in the early 1980s, and were guided by a lack of available destruction alternatives. As a result, the Ministry introduced standards to ensure the safe storage of these materials until destruction technologies became available. Facilities that can destroy PCBs in an environmentally appropriate manner are now available in both Canada and the United States. Also, the Canada-Ontario Agreement on Great Lakes Water Quality commits Ontario to move PCBs out of storage and into destruction.

To encourage consolidation and destruction of PCB waste, the Ministry proposes to simplify and standardize the administrative requirements controlling storage and movement of PCBs and set approvals requirements for mobile PCB destruction facilities according to the risk to the environment (innovative improved destruction technologies have been developed since the regulation came into effect). Strong standards would remain to make sure that these wastes of special concern continue to be safely managed.

The "Selected Waste Depots" and "Pesticide Container Depot" sections in Regulation 347 outline the requirements for sites that accept certain wastes from the public, such as waste oil, anti-freeze and empty pesticide containers. These requirements are overly complex and a disincentive for retailers wanting to establish a depot. To encourage retailers to accept these materials, the Ministry proposes to focus depot requirements on those that protect the environment. The Ministry also proposes to consolidate the 'selected waste' and 'pesticide container' sections and expand the eligible wastes to allow the collection of small quantities of other waste such as household hazardous waste (e.g. paints and pharmaceuticals).

A study of pathological waste quantities in Ontario undertaken by the Ministry in 1992 revealed that most waste currently segregated as pathological waste did not require expensive special handling. The Ministry proposes to implement an improved and more

specific definition termed "bio-medical waste" which has developed with broad public consultation and is supported by the Ontario Hospital Association. Hospitals who have piloted the use of this new definition have saved between 30% and 70% of their waste management costs without jeopardizing human health and the environment.

The Ministry also proposes to eliminate regulatory requirements that are obsolete, or deal with issues that have been resolved. For example:

- Regulation 348, which sets out requirements for eight landfill sites which at one time were accepting liquid industrial waste, will be revoked. Since the establishment of this regulation, these sites have either ceased accepting these wastes or have had their approvals amended; and,
- The milk container regulations (344, 345) were established to help preserve refillable milk containers by limiting the type of disposable containers used for milk. They are outdated and no longer serve their original purpose, thereby creating confusion. This government is proposing to act on revoking them.

To streamline regulation and remove barriers to efficient waste management, the Ministry proposes to:

- Consolidate all of its waste management requirements into one regulation.
- Revise the Deep Well Disposal Regulation (Reg. 341) requirements to eliminate the fee schedule, amend the oil field brine exemption, and provide additional definitions for clarity.
- Simplify and standardize the administrative requirements controlling storage and movement of PCBs and set approvals requirements for mobile PCB destruction facilities according to the risk to the environment.
- Harmonize federal and provincial definitions of "hazardous waste" to reduce confusion while maintaining environmental protection.
- Establish a simplified roster system for tracking small quantities of waste.
- Focus Selected Waste and Pesticide Container Depot rules on standards that protect the environment.
- Permit the collection of small quantities of other waste such as household hazardous waste at Selected Waste Depots.
- Implement the improved definition of "biomedical waste".
- Revoke obsolete regulations: 344 - Disposable Containers for Milk, 345 - Disposable Paper Containers for Milk, 348 - Hauled Liquid Industrial Waste Disposal Sites.

Improving Flexibility and Promoting Voluntary Action

The regulated sector has demonstrated an increased willingness to take responsibility for designing local and innovative solutions to waste issues. The Ministry is responding by providing flexibility in its regulatory requirements and by promoting voluntary action.

The municipal 3Rs regulations are specific in defining acceptable recycling programs. These requirements can be improved to increase flexibility in program design and reduce costs for municipalities. More cost effective systems will promote greater waste diversion and system sustainability.

The Ministry proposes to amend municipal 3Rs requirements to allow two-stream systems (such as the wet/dry collection systems being piloted in Guelph and Northumberland County) and to provide a single list from which municipalities must choose their seven or more Blue Box materials. One list would replace the current mandatory and supplementary lists, allowing municipalities to select materials that match local markets. The 50 meter buffer requirement for establishing municipal recycling facilities would also be amended to ease the siting of these facilities.

Waste and packaging reduction has consistently saved Institutional, Commercial and Industrial (IC&I) generators money and increased operational efficiencies.

Where such direct financial incentives exist, there is less need for prescriptive regulation requiring time consuming annual audits and workplans.

Some stakeholders recommend revoking the *Waste and Packaging Audit and Workplan Regulations* (Regulation 102 and 104). The Ministry is seeking input on this option.

To promote product stewardship for managing spent products, the Ministry proposes to reduce administrative and approval requirements for original product manufacturers to set up "Manufacturer Controlled Networks" (MCN). Within these Networks, manufacturers will take responsibility for collecting and managing wastes generated throughout the "life cycle" of: production, product sale, use, waste collection and recycling or disposal. Such a network could be set up under these new requirements with minimal red tape to encourage companies to lead the way in product stewardship.

The *Container Regulation* (Reg. 340) began as a prescriptive regulation requiring shelf space dedicated to refillable soft drink containers. In 1985, the regulation was amended to a performance requirement that 30% of carbonated soft drinks be sold in refillable containers. However, since the public currently purchases less than 2% of soft drinks in refillables, the regulation is unworkable, and needs to be changed. Some

To improve regulatory flexibility and promote voluntary action, the Ministry proposes to:

- Amend Municipal 3Rs Regulation 101 to allow two-stream systems and to provide one list from which municipalities must choose seven or more Blue Box materials.
- Seek input on revoking the Waste and Packaging Audit and Reduction Workplan Regulations (102 and 104).
- Simplify administrative and approval requirements for original product manufacturers to encourage the setting up of "Manufacturer Controlled Networks".
- Seek alternative approaches for promoting the use of refillable containers.

stakeholders recommend that Regulation 340 be revoked. The Ministry continues to promote the use of reusable packaging and is asking for views on alternative approaches through this consultation.

BENEFITS OF REFORM

A comprehensive waste regulation with clear definitions, a range of approval requirements geared to environmental risk, and reduced administrative requirements would result in less red tape for the regulated community, greater clarity in interpretation, a higher waste diversion rate and continued environmental protection.

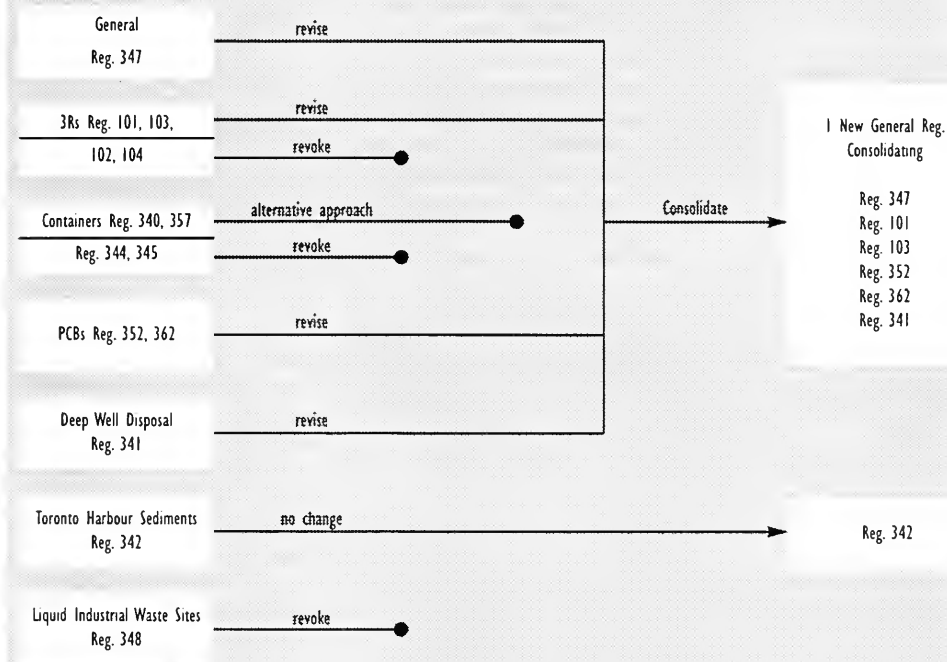
- The Ministry anticipates better environmental protection and enhanced waste management by:
 - **focusing action on areas of highest environmental significance** such as the move toward destruction of PCBs and approvals geared to risk; this approach would free resources which can be more productively applied to higher priority problems;

- **increasing waste diversion from landfills** through amendments to definitions and exemptions from certain regulatory requirements;
- **improving compliance** through consistent interpretation of one consolidated waste regulation; and,
- **setting more stringent standards** for landfill sites.
- While environmental protection is maintained or improved, a number of proposals would result in **greater efficiency** for the regulated sector and the Ministry. There would be fewer Certificates of Approvals for waste sites and systems; the 180,000 waste manifest forms would be reduced by one third or more, and the number of reports required of the regulated sector would decrease.

SUMMARY OF PROPOSED REFORM: WASTE MANAGEMENT

Existing Regulations

Proposed System of Regulation — Year 1



Water Quality

Ontario's water quality management system protects surface water, groundwater and drinking water. The Ministry's water quality management goals are to ensure that:

- quality of *surface water* is protected to ensure a healthy aquatic ecosystem,
- quality and quantity of *groundwater* is protected; and
- *drinking water* supplies are safe and aesthetically-pleasing.

Seventeen (17) regulations and numerous guidelines, objectives, instruments and programs are employed to achieve these goals. Initially, regulatory measures for surface water focused on controlling conventional pollutants, such as phosphorus, phenols and suspended solids. In the late 1980's, the control of toxic substances became the central focus of water quality management through the development and implementation of the Municipal Industrial Strategy for Abatement (MISA).

In Ontario, 2.8 million people and 90% of farms rely on groundwater sources. There are approximately 750,000 water wells across the province, with about 11,000 new wells being installed each year. The *Ontario Water Resources Act* (OWRA) governs the management of groundwater and outlines the responsibilities of the Ministry. The *Wells Regulation* (Reg. 903) outlines requirements for: well construction, abandonment procedures, licensing of contractors and technicians and reporting of new wells.

Both groundwater and surface water are protected by the *Sewage System Regulation* (Reg. 358) which specifies system classes, standards for construction and operation, and licensing requirements for installation of septic tanks and sewage systems.

Changes to Regulation 358 will be reviewed under Approvals Reform.

The Ministry's Ontario Drinking Water Objectives specify acceptable limits for substances in drinking water. Minimum treatment requirements for drinking water plants are established through guidelines and implemented through Certificates of Approval. The *Water Works and Sewage Works Regulation* (Reg. 435/93) sets out the requirements for training and certification of plant operators.

OPPORTUNITIES FOR REFORM Focusing Efforts on Priorities

In 1993-1995, regulations under the Municipal Industrial Strategy for Abatement (MISA) were introduced setting effluent discharge limits for nine industrial sectors. When the limits come into force between 1996 and 1998, there will be reductions of over 100,000 tonnes per year for conventional pollutants and 2,000 tonnes per year for toxic pollutants. Discharges from municipal sewage treatment facilities are not yet governed by regulations.

To control municipal discharges, the Ministry proposes to:

- Complete a performance-based regulation for sewage treatment plants in cooperation with stakeholders.

Using Innovative Management Approaches

Ontario's current approach to water quality management is based on controlling release of pollutants. In the last decade, new regulations have been added. As well, increased emphasis has been placed on watershed planning at the local level. To further advance water quality management and better incorporate ecosystem considerations, other mechanisms such as performance contracts, economic instruments and codes of practice may be useful. These tools offer a variety of benefits ranging from greater flexibility in achieving environmental goals, to greater cost-efficiency and increased environmental stewardship.

For example, a Code of Environmental Practice is being developed by the Clean Marine Partnership, including this Ministry, Environment Canada, Ontario Marina Operators Association and Ontario Sailing Association. The code will go beyond the current requirement for a marina to have a waste disposal and pump-out facilities and recommend comprehensive environmental protection practices for marinas and yacht clubs.

To encourage continuous improvement and voluntary action, the Ministry proposes to:

- Replace the *Marinas Regulation* (Reg. 351) with a voluntary *Code of Environmental Practice*. The current level of environmental protection will be maintained by the *Discharge of Sewage from Pleasure Boats Regulation* (Reg. 343) which prohibits sewage discharge from pleasure boats.

Simplifying and Updating Regulation

a) MISA

The MISA monitoring regulations have required extensive monitoring and reporting of effluents since 1989. With the introduction of the nine MISA effluent regulations, emphasis on monitoring has shifted from establishing limits to tracking attainment of those limits. For companies that consistently demonstrate that they can surpass effluent limits, the monitoring requirements will be reduced.

AOX (total adsorbable organic halides) is used in monitoring as an indicator of levels of chlorinated compounds in pulp and paper effluent. Under the current MISA *Pulp and Paper Regulation*, kraft mills (those with a bleaching process) are required to, among other requirements:

- reach 0.8 kg AOX per tonne of pulp by 1999; and,
- submit reports on how they intend to reach zero AOX by 2002.

The regulation requires the Ministry to review these reports against its goal of zero AOX.

All kraft mills in Ontario have achieved the regulated standard of 0.8 kg AOX per tonne of pulp, by substituting chlorine dioxide for elemental chlorine in the bleaching process. Recent studies have indicated that detrimental impacts

on fish, associated with chlorinated compounds, only occur above AOX levels of 1.5 kg per tonne of pulp¹. Environment Canada is undertaking further research on compounds responsible for the damaging effects of pulp mill effluents at levels below 1.5 kg AOX per tonne of pulp². The Ministry's current regulated standard of 0.8 kg per tonne of pulp ensures environmental protection.

To streamline processes and reduce reporting and monitoring requirements, the Ministry is proposing to:

MISA

- Remove the requirement for the Pulp and Paper Sector to submit reports on how to reach zero AOX by 2002 and remove the requirement for the Ministry to review the reports against the goal of zero AOX.
- Reduce routine chronic toxicity testing requirements when sufficient data has been collected to analyse trends.
- Remove reporting and monitoring requirements for substances that are not used in a facility's industrial processes.
- Reduce monitoring frequency for facilities that surpass effluent limits as incentive to good performance.
- Revise MISA Regulations to allow regulated facilities to store monitoring data using software of their choice. Summary data must be submitted in a Ministry-approved electronic format using any software. However, where detailed data is requested by the Ministry, it can be submitted in any format.

WELLS

- Revise the regulation to increase the licensing fee, decrease the frequency of licence renewal, and require that the water well records be submitted in electronic format.

GROUND SOURCE HEAT PUMPS

- Update Regulation 77/92 to restrict the use of methanol in ground source heat pumps, as safer heat transfer fluids are now available.

¹ Berry R.M. et al., "The effects of recent changes in bleached softwood Kraft mill technology on organochlorine emissions: An international perspective" *Pulp and Paper Canada* 92:5, 1991.

² Munkittrick and Van der Kraak, "Receiving Water Environmental Effects Associated with Discharges from Ontario Pulp Mills — High Enzyme Activity was Seen in Fish from Chlorine-Free Sites", *Pulp and Paper Canada* 95:5, 1994.

Given the current level of scientific knowledge, further evidence of environmental benefits of reaching zero AOX would be required to justify the major costs entailed for the pulp and paper industry. Retaining the existing goal for zero AOX creates uncertainty, and may divert investment away from other more environmentally beneficial production technologies. We propose to remove the requirement for the Pulp and Paper sector to submit reports on zero AOX and the reference in the regulation to a goal of zero AOX.

b) Wells

The *Wells Regulation* (Reg. 903) requires that records be submitted to the Ministry for all newly constructed wells. These records form the basis for the water well record data base — an important information source for managing and protecting the groundwater resource. However, the data base has become an administrative burden for the Ministry.

Harmonizing Regulatory Requirements

Over the past decade, there have been significant developments in water quality management. Today there are a number of governments and agencies involved in managing and regulating the water resources in Ontario. While this has resulted in improvements in water quality, this has also led to concerns about overlap, duplication and the need for better coordination.

Industry now submits water quality monitoring data separately to Environment Canada and the Ministry. Greater efficiency can be achieved by coordinating this activity. A Memorandum of Understanding (MOU) has been signed with Environment Canada, covering cooperation in the collection and maintenance of monitoring data, including the National Pollutant Release Inventory (NPRI). The Ministry will also work with the federal government to harmonize compliance reporting requirements.

To harmonize regulatory requirements for water quality management, the Ministry proposes to:

- Coordinate MISA reporting requirements with the federal government.
- Work with the federal government to coordinate water quality data requirements.

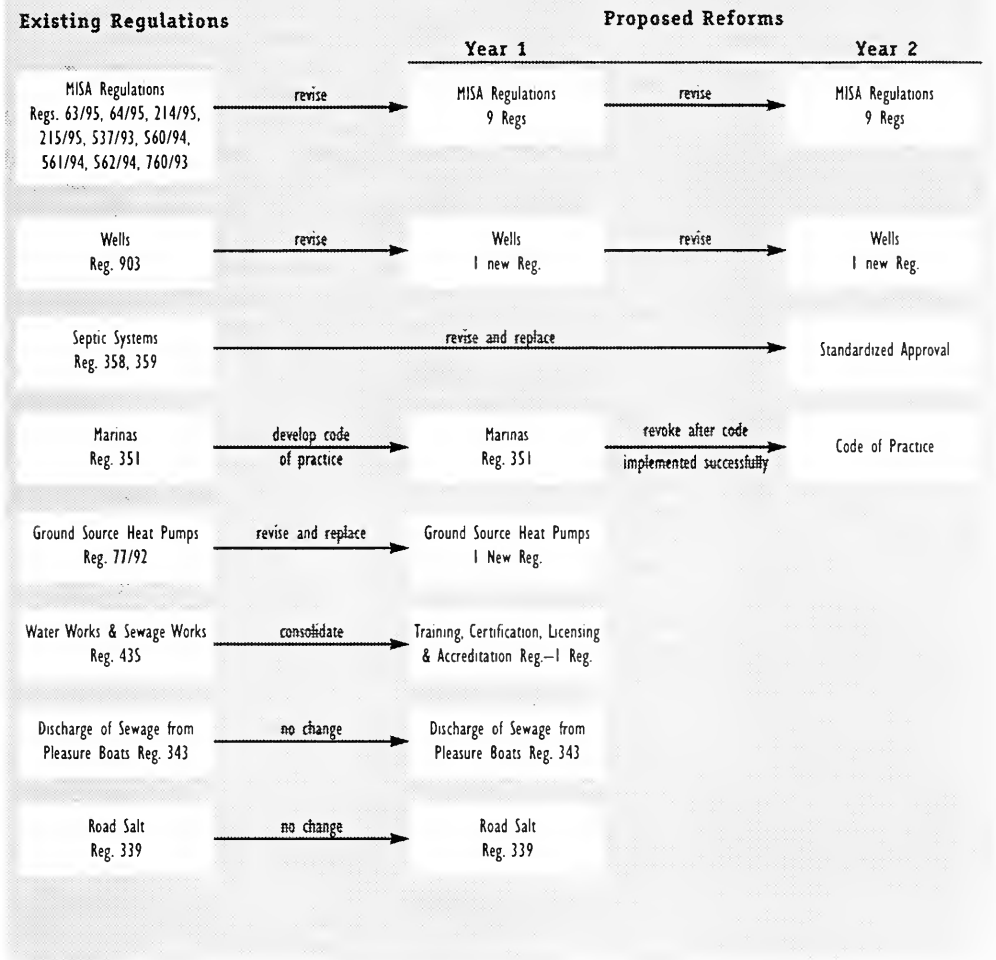
BENEFITS OF REFORM:

The proposed reforms to water quality regulations would result in the following benefits:

- The reduction in MISA monitoring requirements would result in considerable cost-savings for those firms who surpass regulatory requirements. Cost-savings for a typical plant eligible for reduced monitoring for a toxic substance from daily to bi-weekly are estimated at 93% (eg. from \$73,000 to \$5,200 per year).
- The new user-friendly reporting system, in place of MIDES (Municipal-Industrial Data Entry System), would provide flexibility to the discharger. The reduction in data entry workload for industry using the new proposed data system for each MISA industrial sector is estimated at:

- Pulp and Paper.....	84%
- Petroleum	82%
- Metal Casting	79%
- Organic Chemical	71%
- Inorganic Chemical	71%
- Electric Power.....	42%
- Iron and Steel	33%
- Metal Mining.....	10%
- Increased use of voluntary mechanisms, such as the Code of Environmental Practice for marinas, reduce administrative burden on the Ministry and encourage industry commitment to environmental stewardship.

SUMMARY OF PROPOSED REFORM: WATER QUALITY



► The Regulatory Process

Over the last two decades, the Ministry has used targeted regulations to address specific problems and priority issues. Recent examples include the 3Rs, ozone depleting substances regulations, and MISA regulations. In developing these regulations the Ministry attempted consultation with affected parties, but analysis of environmental, social and economic impacts of alternative approaches was not always undertaken in consistent and appropriate depth. For example, 65 of the Ministry's 80 regulations did not receive a detailed economic analysis at the time of their development. This is not acceptable. The public deserves a more systematic approach to the development and review of regulations.

The government has recognized this need and, through the Red Tape Review Commission, is introducing reforms to the process of making regulations. A case in point is the "Less Paper/More Jobs Test". These reforms will apply to all ministries.

OPPORTUNITIES FOR REFORM

Consistent with the "Less Paper/More Jobs Test", the Ministry is proposing a code of practice to guide the development and review of regulation. The proposed code of practice will include the following elements, which follow the "life-cycle" of a regulation:

Identification and Assessment of Alternatives to Regulation

At the outset, in developing solutions to environmental problems, the Ministry will work with its clients to identify appropriate alternatives to regulation. All options, regulatory and non-regulatory, will be assessed in terms of their effectiveness in solving the problem and their efficiency to the Ministry and affected parties. Emphasis will be placed on comparative assessment of benefits and costs of proposed solutions.

Consultation on Choice of Policy Instrument

The development of new regulations or amendment of existing regulations will involve a full consultation with all stakeholders (including regulated sectors, environmental technology industries, environmental organizations and others) at an early stage in the developmental process. It is possible in many circumstances that combinations of regulatory and non-regulatory tools will be best suited to the problem.

Design and Impact Assessment

Where regulation is selected, the Ministry will examine various designs to ensure minimization of administrative burdens on affected parties. The economic and business impacts of alternative designs will be assessed against environmental benefits. The Ministry will also implement the "Less Paper/More

Jobs Test" recently approved by Cabinet for all new regulatory proposals or changes to existing regulations. This test ensures that no new regulation will be introduced without a vigorous analysis that will provide assurance that new regulations are effective and their benefits exceed the costs.

Clarity of Language and Regulatory Requirements

Lack of clarity can produce uncertainty in interpretation and uneven enforcement. The Ministry proposes to improve this situation by preparing a plain language synopsis for all new and amended regulations. Requirements for compliance will be clearly spelled out.

Access to Regulatory Information

The plain language synopsis of any proposed regulation or amendment will be published (for example, in trade magazines) and listed on the EBR Registry. Existing and proposed regulations will be made available on the Internet.

Greater emphasis will be placed on providing concise "one-window" information on the total set of Ministry regulatory requirements affecting specific sectors or undertakings.

Periodic and Sunset Reviews

All new and amended regulations will undergo a regular review to assess performance, continued relevance, and the availability of cheaper, more effective means to achieve the desired outcome.

In addition, where appropriate, regulations will include a specific termination date (i.e., sunset date). This sunset requirement can be assessed within the periodic review of the regulation.

To support Ministry decision making on selection and evaluation of policy instruments, including regulation, the Ministry proposes to:

- Develop and implement a "Regulatory Code of Practice" including use of the government's "Less Paper/More Jobs" test.

We invite comments on the scope and content of the proposed Regulatory Code of Practice.

BENEFITS OF REFORM:

The formalization of a regulatory code of practice in the Ministry will provide greater clarity, certainty, and accountability regarding Ministry decision-making on the selection of policy tools, including both regulatory and non-regulatory approaches. Client service will be improved by making regulatory requirements more understandable and accessible. A broader commitment to regular review, performance assessment and "testing" of our regulations will make regulations more responsive to changing circumstances.

Going beyond regulation



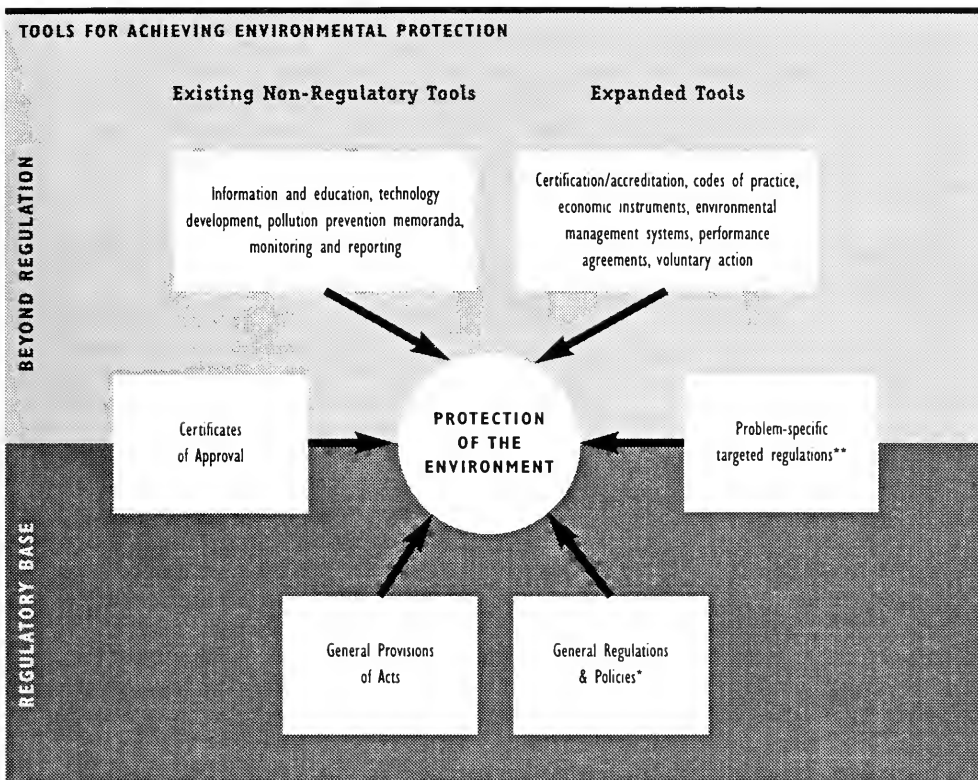
The Ministry has met its environmental protection mandate in the past with a core system of regulatory tools. These tools include:

- general enabling legislation (19 provincial statutes)
- targeted regulations (80 regulations)
- approvals, permits and licences
- guidelines and procedures.

These core regulatory tools are supported by other Ministry activities, including: standard setting, monitoring and reporting, compliance assessment and enforcement, technology research and information transfer, grants, public information and education, and policy and program development.

Regulation will have a continuing role in the future, where it provides an effective solution to problems and where costs are commensurate with benefits. Scientifically sound and well designed regulations and standards provide clear and uniform requirements for regulated parties. Good regulation, solidly enforced, provides the assurance of protection desired by the public and the level playing field desired by the regulated community.

As the Ministry moves ahead, however, there is a need to build upon our regulatory base with mechanisms that are incentive based, providing encouragement for self-initiative, environmental stewardship, and continuous environmental improvement beyond the requirements of regulation. We need to combine a baseline of smart effective regulation with meaningful incentives for performance. There is wide range of policy tools available to complement regulation. The Ministry, in conjunction with private sector partners and municipalities, has initiated use of many of these tools and foresees their expanded use.



* including objectives, standards, guidelines and procedures

**including various permits and licences

CERTIFICATION AND ACCREDITATION

The Ministry supports the use of certification and accreditation as methods to achieve consistency and accountability in many aspects of environmental protection. The Ministry has worked with private sector partners to introduce certification for the following areas: water and sewage operators, well drillers, refrigerant technicians, and pesticide use by growers. Certification and accreditation may offer similar benefits

in other areas such as site remediation and environmental auditing. This approach offers significant potential for private service sector growth in Ontario.

To facilitate broader use of this tool we have, in this paper, proposed the development of a new comprehensive "Training, Certification, Licensing and Accreditation Regulation".

The Ministry will, in conjunction with its clients and interested parties, seek further opportunities to expand use of certification and accreditation as a means to more effective and efficient environmental protection.

CODES OF PRACTICE

An increasing number of industry groups are developing environmental codes of practice to guide individual facilities in undertaking environmental management. The Ministry has been working with several industry groups to develop and promote adoption of these codes. In this paper we have proposed adoption of codes of practice, combined with standardized approvals, to replace the current regulations on hot mix asphalt facilities and boilers (see Section on Air). Industries operating under codes of practice remain subject to requirements specified in standardized approvals and other general provisions of Ministry statutes and regulations.

The Ministry supports the development and adoption of industry and municipal codes of environmental practice and will continue to cooperate in their development and promote their application.

ECONOMIC INSTRUMENTS AND MARKET FORCES

The Ministry is currently working on a number of fronts to explore the broader application of economic instruments in support of its mandate. For example, pilot projects and feasibility studies are being undertaken in the use of "fee-per-bag" garbage disposal service delivery, trading of phosphorus discharge allocations, and innovative financing mechanisms for stormwater management. For some time the Ministry has required financial assurance as an incentive for performance.

The Ministry is also engaged in discussions with a consortium of major industry facilities in Ontario and Quebec regarding establishment of a demonstration project for open market trading of emission reduction credits. The Ministry is committed to exploring the feasibility and benefits of such a system. In this paper we have discussed the potential application of emissions reduction trading (Air Quality Section) and modification of fees for Certificates of Approval to provide incentive for adoption of pollution prevention and new technologies.

The Ministry foresees that economic instruments may play a useful role in providing appropriate signals and incentives for environmental performance. The Ministry will continue to work with its clients to develop effective policies relating to the use of economic instruments.

ENVIRONMENTAL MANAGEMENT SYSTEMS

Environmental management systems (EMS) are standardized methodologies for planning, implementing and evaluating environmental protection programs in industry and institutions. Best known of these systems is the International Standards Organization's "ISO 14000" series. MOEE has been working closely with the Canadian Standards Association and the Canadian Manufacturers' Association, both to promote adoption of environmental management systems and to determine an appropriate method for integrating these systems into the Ministry's regulatory and technical assistance programs. The Ministry sees great advantage in expanding industry adoption of EMS, particularly in conjunction with joint environment priority setting and development of codes of practice for specific sectors.

The Ministry will continue to work with standards organizations, industry groups and others to determine the best approaches for integration of Environmental Management Systems into our regulatory or non-regulatory programs.

PERFORMANCE AGREEMENTS

The Ministry is proposing the promotion of continuous improvement of industry's environmental performance through a system of government incentives and rewards balanced by industry commitment to performance and accountability. This relationship would be formalized through contractual performance agreements.

The contract or agreement could include enhanced ISO 14000 standards with third party auditing, environmental performance measures, public consultation and reporting together with innovative pollution prevention measures, product stewardship measures and/or design for environment measures. Incentives and awards for participation would vary according to the proposals and could include public recognition and technology transfer. If there is a breach of the contract, industry would lose all rewards and incentives, and would be subject to regular monitoring and reporting regulatory requirements.

The Ministry proposes to consult with stakeholders on the design of this new initiative and undertake a pilot project.

**PERFORMANCE-BASED
REGULATION**

As requested by environmental industries in the Green Industry Ministerial Advisory Committee Report, in 1995 the Ministry established the "Performance Based Regulation Task Team" with representation from major industries and academia. The concept underlying performance based regulation is that government is most effective in setting performance outcomes in regulation rather than the means by which those outcomes are achieved. The Ministry concurs that this approach is desirable in many situations, particularly for large integrated industrial facilities where a wide range of technical options exist for reducing or eliminating pollutants and where sophisticated monitoring is justified.

Our experience, however, has been that in cases of industry sectors with many small facilities where operating practices and equipment are homogeneous, it may be more desirable to regulate certain equipment, practices and related training. The answer lies in full consultation during the regulation development to ensure design of a practical, effective and efficient instrument.

The Task Team's report will be released this summer and the Ministry is prepared to use performance based regulation wherever possible.

**PROMOTION OF VOLUNTARY
ACTION**

The Ministry has instituted, or is working on, a number of initiatives that recognize and encourage voluntary action by industry. For example, under the Ministry's Pollution Prevention initiative, Memoranda of Understanding are in place with five industry sectors. The participants have voluntarily undertaken numerous pollution prevention projects which achieved significant reductions in waste generation and release. The Ministry is also exploring new relationships that give businesses greater operational flexibility, more regulatory certainty, and streamlined approvals in return for voluntary commitments to action beyond compliance, along with adoption of rigorous pollution prevention planning, auditing and reporting.

The Ministry is prepared to initiate pilot projects promoting voluntary action with a number of firms in 1996-97.

PERFORMANCE REPORTING AND RECOGNITION

The Ministry currently collects and publishes a wide range of information on environmental conditions in Ontario, including information on the discharges to the environment and progress in achieving Ministry targets and objectives. In addition, municipalities, corporations and trade associations have increased their efforts to prepare and release summary information on environmental conditions and performance.

Public access to this information is an important tool by which performance in environmental protection by all parties can be evaluated. Provision of this information serves to recognize good environmental performance and ensures accountability in relation to regulatory requirements and voluntary commitments. Technically sound information is also essential to support effective public dialogue on environmental issues. The Ministry recently inaugurated its own Internet Web Site as a means to make Ministry information more accessible. In its recently released Business Plan, the Ministry identifies a number of proposed performance measures which will be used to assess progress in meeting environmental management goals.

The Ministry will continue to work with other agencies, the private sector and non-governmental organizations to promote and improve public accessibility to information on the environment and environmental protection in Ontario.

Furthermore, the Ministry is evaluating its internal information resources to better link these to measurement of its performance in meeting objectives and benchmarks. The Ministry is also examining its current external recognition and award programs to give these programs greater public profile.

Conclusion



This consultation paper has identified a number of reforms that will:

- Provide greater order, clarity, certainty and cohesion in our system of regulation.
- Improve regulatory processes, making them more efficient and timely for government and regulated industries.
- Expand the types of approaches that may be used in solving environmental problems, encouraging greater efficiency, more cooperation and more incentives for continuous improvement, and increased opportunities for Ontario environmental industries.
- Focus Ministry efforts on priority environmental issues, providing more effective use of our resources.
- Focus on results as opposed to methods, thereby promoting accountability and encouraging greater flexibility and innovation in the development of solutions.

The proposed regulatory reforms would contribute to better client service and lower costs while continuing to maintain high standards of environmental protection and energy efficiency.

The Ministry invites you to comment on the proposals in this paper. Your input is important to the sound reform of Ontario's environment and energy regulatory system. Further details on how you can get involved are provided on page 3.

Appendix A: The Review Process

What process has the Ministry followed in arriving at these proposals?

What happens next, following consultation on the proposals?

In September 1995 the Ministry initiated a comprehensive review of 80 environmental and energy regulations. The fundamental objective of MOEE's regulatory reform is to ensure continued human health and safety and environmental protection while eliminating red tape, obsolete regulations and simplifying the system in order to promote economic growth and job creation. Reform of environment and energy regulation will contribute to the Government's broader objectives of economic renewal and fiscal responsibility.

The review is being undertaken in three phases.

PHASE 1: PROPOSAL DEVELOPMENT (SEPTEMBER '95 TO JUNE '96)

At the outset of Phase 1, the Ministry undertook an internal assessment of the regulations. The review framework questioned the continuing rationale for each regulation and identified some preliminary opportunities for improving the regulation. Reform opportunities were evaluated in relation to four key factors: impact on the environment and human health, impact on regulatory burden and the economy, the Ministry's capacity to implement the reforms, and the extent to which the reform has broad stakeholder support.

In Phase 1 the Ministry sought input from some 120 groups and organizations with interests in environmental and energy issues. These groups were asked to identify problems in the existing regulatory system and potential solutions they might propose. Between March 1 and May 1 more than 60 submissions were received (Table B-1 lists the submissions received). These submissions are on the public record. Dr. Doug Galt, Parliamentary Assistant for Environment, met with many of these groups to obtain a first hand perspective on issues.

A number of central themes emerged from these submissions, including:

- Continue to provide strong, fair environmental protection through an efficient, effective regulatory system
- Simplify Ministry approvals processes
- Make regulations more performance oriented — focus on ends not means and provide incentives for innovation
- Reduce monitoring and reporting burdens that have little environmental pay-off
- Harmonize regulations with other levels of government
- Promote voluntary action and industry codes of practice
- Set clear, consistent and scientifically defensible standards
- Focus enforcement activity on high risk activities and problems
- Consolidate and simplify the system of regulations.

The input received from stakeholders during Phase 1 contributed to the development of the reform proposals in this consultation paper.

Table B-1 List of Submissions Received — Phase 1
SUBMISSIONS RECEIVED TO DATE

Domtar Packaging
Canadian Institute For Environmental Law and Policy
The Canadian Chemical Producers' Association
Canadian Aerosol Information Bureau
Association of Municipalities of Ontario
Ontario Waste Management Association
Environmental Commissioner of Ontario
Maratek Environmental
Canadian Environmental Law Association
The Canadian Petroleum Products Institute
Lambton Industrial Society
Ministry of Transportation
Ontario Federation of Labour
Todd's Your Answer Ltd.
Canada Soil Exchange Ltd.
RWDI Environment Limited
Virides Environmental Inc.
Peto MacCallum Ltd.
Canadian Council of Grocery Distributors
Municipal Electric Association
Automotive Parts Manufacturers' Association
Canadian Manufacturers' Association
Ontario Hydro
Ontario Hot Mix Producers Association
Ontario Water Works Association
Ontario Pest Control Association
Ontario Professional Pesticide Application Association
Gliden Pro Ltd
Sudbury Laundry and Dry Cleaners
Industrial Accident Prevention Association Ontario
Ontario Fabricare Association

Carnegie Trade Cleaners
Canadian Grain Commission
Great Lakes United
Ontario Dairy Council
Canadian Soft Drink Association
Land Use Planning Branch, Ministry of Natural Resources
Ontario Painting Contractors' Association
Peterborough Utilities Commission
Langley Parisian
ELO ECO Logic Inc.
Grocery Products Manufacturers of Canada
Algoma Steel Inc.
Newtex Ltd
Centre & South Hastings Recycling Board
Ministry of Municipal Affairs and Housing
Ministry of Agriculture Food and Rural Affairs
Finchdale Cleaners
Pharmaceutical Manufacturers' Association
Ontario Mining Association
Motor Vehicle Manufacturers' Association
Ontario Forest Industries Association
Wastewater Technology Centre
Ontario Federation of Agriculture
DellTech Laboratory
Mr. and Mrs. Zehwetro
Ball Packaging Products Canada Inc.
Crown Cork & Seal Canada Inc.
TWINPAK
Boonstra
Urban Design, Planning & Environment

PHASE 2: PUBLIC CONSULTATION

The release of this report marks the initiation of formal public consultation on specific proposals to reform the regulatory system. This consultation includes:

- Formal listing of the public review period and process on the Environmental Bill of Rights registry. Written submissions to the Ministry are invited.

- Distribution of the report to groups and individuals on the Ministry's review mailing list.
- Public access to this document through a variety of sources:
 - The Ministry's Public Information Centre in Toronto
 - Ministry Regional Offices
 - Electronic Access through the Ministry Internet Web site
- Further meetings with stakeholders and information sessions.

PHASE 3: APPROVALS AND IMPLEMENTATION

Following refinement of reform proposals based on Phase 2 consultation, the Ministry will undertake the detailed technical and legal work necessary to obtain Government and Legislature approvals to proceed. Prior to proceeding to Cabinet or the Legislature the Ministry will post the detailed proposed policy and regulatory changes on the Environmental Bill of Rights Registry for a final consultation period.

The timing and implementation of these approvals will depend on their complexity, the extent of detailed technical and legal work required, and the need to integrate reform initiatives with the Ministry's Business Plan and the government's overall legislative agenda. The implementation of straightforward administrative measures which do not require Cabinet or Legislative approval will be accelerated.

Appendix B: Annotated List of Ministry Regulations

ENVIRONMENTAL PROTECTION ACT

Regulation # and Title	Description of Regulation	Review Conclusions — Reform Opportunities
63/95 <i>Effluent Monitoring and Effluent Limits — Organic Chemicals</i>	Applies to 25 Organic Chemical Manufacturing plants and establishes daily and monthly average loading limits for 79 parameters.	For all MISA Regulations, revise to: <ul style="list-style-type: none"> • Reduce chronic toxicity testing requirements when sufficient data has been collected to analyse trends. • Remove reporting and monitoring requirements for substances that are not used in a facility's industrial processes. • Allow regulated facilities to submit monitoring data using software of their choice.
64/95 <i>Effluent Monitoring and Effluent Limits — Inorganic Chemicals</i>	Applies to 26 Inorganic Chemical plants and establishes daily and monthly average loading limits for 41 parameters.	Same as Reg. 63/95
77/92 <i>Certificates of Approval (s.9 of the Act) Exemptions for Ground Source Heat Pumps</i>	Exempts ground source heat pumps from section 9 of the EPA.	Revise to restrict the use of methanol.
101/94 <i>Recycling and Composting of Municipal Waste</i>	Requires municipalities to implement recycling programs and backyard and central composting programs. Exempts certain recycling and composting sites from approval requirements.	Consolidate the following revised requirements into a new general waste regulation (see 347): <ul style="list-style-type: none"> • Allow two-stream systems and provide one list from which municipalities must choose seven or more Blue Box materials. • Provide flexibility in choice of Blue Box materials and add other materials to Schedule 3 • Amend 50 m buffer for siting MRFs.
102/94 <i>Waste Audits and Waste Reduction Workplans</i>	Sets out the requirements for large industrial, commercial and institutional (IC&I) sector establishments to develop waste audits and workplans.	Seek input on revoking the regulation.
103/94 <i>Industrial, Commercial and Institutional Source Separation Programs</i>	Requires large IC&I establishments to implement source-separation programs.	Consolidate the current requirements into a new general waste regulation (see Reg. 347).
104/94 <i>Packaging Audits and Packaging Reduction Work Plans</i>	Sets out the requirements to develop packaging audits and workplans.	Seek input on revoking the regulation.

APPENDIX B: ANNOTATED LIST OF MINISTRY REGULATIONS

189/94 <i>Refrigerants</i>	Prevents the potential release of ozone-depleting fluorocarbons from refrigerators and air conditioning equipment.	Revise to: • Move the training and certification components into a new Training, Certification, Licensing and Accreditation regulation • Clarify responsibilities; and, • Consolidate with 356, 413/94, 717/94 and 718/94 into one ODS regulation
214/95 <i>Effluent Monitoring & Effluent Limits — Iron and Steel Manufacturers</i>	Applies to seven iron and steel plants and establishes daily and monthly average loading limits for 11 parameters.	Same as Reg. 63/95
215/95 <i>Effluent Monitoring & Effluent Limits — Electric Power Generation</i>	Applies to 12 generating stations and associated facilities and establishes daily and monthly average concentration limits for five parameters.	Same as Reg. 63/95
271/91 <i>Gasoline Volatility</i>	Requires reduced vapour emission by lowering the volatility of gasoline in summer.	Revise to: • Clarify the volatility limit; the current limit allows a measurement of up to 72.4 kPa instead of 72 kPa which was intended; • Lower the Summer RVP to 62 kPa from 72 kPa; and, • Consolidate with 353, 455/94 for one vehicles and fuels regulation.
312/93 <i>Prospectors</i>	Exemption for prospectors from Ministry orders.	The regulation was revised substantially in 1995 to clarify liability and ensure continued environmental protection. 312/93 was revoked and replaced by 504/95 Dec.1995. No further reform at this time.
323/94 <i>Dry Cleaners</i>	Requires dry cleaners to be trained in the safe handling of dry cleaning chemicals by certified professionals by June 1996.	Consolidate all requirements into a new comprehensive Training, Certification, Licensing and Accreditation Regulation — then revoke.
336 <i>Air Contaminants from Ferrous Foundries</i>	Sets industry specific particulate emissions rates, collection efficiencies and prohibits water fallout beyond the property line.	Revoke — regulation is outdated since all foundries are now regulated under Regulation 346 (General — Air).
337 <i>Ambient Air Quality Criteria</i>	Sets desirable ambient air quality criteria for As, Cd, CO, dustfall, fluorides, H ₂ S, Pb, mercaptans, Hg, Ni, NO ₂ , oxidants, ozone, soiling, sulphation, SO ₂ , Susp. Particles, and vanadium.	Consolidate with Regulation 346.
338 <i>Boilers</i>	Sets the sulphur content of fuel oil and coal at less than 1% and the maximum rate of sulphate deposition at 0.1 k/hectare/y. except for boilers at Hydro and in homes and excludes Gray and Bruce counties or where an existing C of A applies.	Replace with a code of practice and requirements in a standardized approval regulation.
339 <i>Classes of Contaminants — Exemption (Road salt)</i>	Excludes substances from the act that are used for road safety.	No Change.

APPENDIX B: ANNOTATED LIST OF MINISTRY REGULATIONS

340 <i>Containers (Non-refillable for soft drinks)</i>	Allows for the sale of soft drinks in non-refillable containers provided that a minimum of 50% of such containers are recycled.	Seek alternative approach.
341 <i>Deep Well Disposal</i>	Sets standards for the location, maintenance and operation of deep well disposal sites for liquid industrial waste.	Consolidate the following revised requirements into a new general waste regulation (see 347): <ul style="list-style-type: none"> • Improve definition and amend exemption of oil field brine (waste); • Move standards for deep well disposal sites into the new general regulation.
342 <i>Designation of Waste (Toronto Harbour Sediments)</i>	Enables the placement of Toronto Harbour sediments in a nearby confined disposal facility on the Leslie Street spit without a mandatory Part V hearing.	No Change.
343 <i>Discharge of Sewage From Pleasure Boats</i>	Prohibits sewage discharge from pleasure boats and requires storage and pumpout equipment.	No Change.
344 <i>Disposable Containers for Milk</i>	Together these two regulations (344/345) limit the type of disposable containers for milk. Reg. 344 exempts recyclable milk containers if a deposit is charged.	Revoke without replacement.
345 <i>Disposable Paper Containers for Milk</i>	See above (Reg. 344)	Revoke without replacement.
346 <i>General — Air Pollution</i>	Defines the Air Pollution Index, opacity requirements, fuel burning requirements, bans apartment incinerators and sets maximum half-hour point of impingement concentrations for 87 substances.	First: Consolidate 337 and 346 into one general air regulation covering provincial air standards. Later: Revise the regulation to incorporate local airshed management units (LAMU) and provide for use of a wide range of tools including: local empowerment, economic instruments, pollution prevention, community outreach and voluntary initiatives. Also revise to update and move air modelling requirements into a guideline permitting use of a wider range of models.
347 <i>General Waste Management</i>	A general waste regulation governing the designation and exemption of wastes, sites, and systems. Also sets out standards and requirements for the management of municipal, industrial and hazardous wastes.	Revoke and replace with a new general regulation with the following key features: <ul style="list-style-type: none"> • Consolidate all waste regs; • Separate hazardous and non-hazardous waste requirements; • Improved definitions for asbestos waste, inert fill, recyclable material, biomedical waste, agricultural waste, and organic materials; • Standardized approvals for over 12 types of systems & sites; • Clarify definition of waste-derived fuel and consider including non-hazardous solid waste; • Simplify rules for selected waste depots and add stewardship provision; • Replace manifest system with a roster system for tracking small quantities of hazardous waste; • Amend the waste site definition for generator registration and tracking; • Harmonize current hazardous waste definition with federal definition.
348 <i>Hauled Liquid Industrial Waste Disposal Sites</i>	Sets out requirements, standards and exemptions for eight waste disposal sites accepting liquid industrial wastes in 1981.	Revoke — obsolete; superseded by Certificates of Approval.

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349 <i>Hot Mix Asphalt Facilities</i>	Prohibits visible materials including water plumes from impinging outside the property line.	Develop a code of practice; and, Upon successful implementation of the code of practice, replace the regulation with a standardized approval regulation.
350 <i>Lambton Industry Meteorology Alert</i>	Defines the conditions that give rise to an air pollution alert and actions to be taken during an alert, for Lambton County.	Revoke and replace with a memorandum of understanding.
351 <i>Marinas</i>	Instructs marinas to provide properly operated containers for litter and pumpout facilities.	First: implement a voluntary code of practice; Later: upon successful implementation of the code of practice, revoke the regulation.
352 <i>Mobile PCB Destruction Facilities</i>	Defines the requirements for the establishment of a mobile facility for the destruction of PCBs.	Incorporate the following amended requirements into a new general waste regulation that encourages PCB destruction rather than storage: <ul style="list-style-type: none"> • Set approval requirements for mobile PCB destruction facilities according to risk; • Remove standards that do not relate to environmental protection.
353 <i>Motor Vehicles</i>	Prohibits leaded gasoline (for cars with catalytic converters) and visible emissions longer than 15 sec on motor vehicles, prescribes that pollution control equipment be in working order and defines maximum emissions for various vehicle types.	Revise to update test procedures, test technology and emission standards; Consolidate with 271/91, 455/94 for one vehicles and fuels regulation.
354 <i>Municipal Sewage and Water and Roads Class Environmental Assessment Project</i>	Eliminates the need for hearings under 30(1) and 32 (1) of the Environmental Protection Act prior to the approval of waste disposal sites associated with municipal sewage and water and roads projects, provided proponent has met requirements of the class environmental assessment approval.	No change.
355 <i>Ontario Hydro (Countdown Acid Rain)</i>	Sets air quality limits (for sulphur dioxide and nitric oxide) and reporting requirements for Ontario Hydro's power generating facilities.	Same as Reg. 660/85
356 <i>Ozone Depleting Substances — General</i>	Bans CFC's in aerosols in 1989 and phased-out CFC-blown foam by December 31, 1993.	<ul style="list-style-type: none"> • Revise to remove outdated/sunset sections of regulation. • Harmonize federal-provincial requirements regulating the production of ozone depleting substance by eliminating overlapping production related requirements from provincial regulation. • Consolidate with 189/94, 413/94, 717/94 and 718/94 into one ODS regulation
357 <i>Refillable Containers for Carbonated Soft Drinks</i>	Sets out requirements and industry responsibilities for soft drinks sold in refillable containers.	Seek alternative approach.
358 <i>Sewage Systems</i>	Specifies the classifications, construction and operation standards and the licensing requirements for septic tanks and sewage systems.	Changes being considered under Approvals Reform. Public input now being sought on problems and solutions with respect to this regulation and the EPA Part VIII approvals program.

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359 <i>Sewage Systems — Exemptions</i>	Exempts surface sewage works from Part VIII of the EPA.	Same as Reg. 358.
360 <i>Spills</i>	Clarifies the duties and rights contained in Part X of the EP Act which deals with spills.	Revise to: <ul style="list-style-type: none"> • To better organize and simplify language • Clarify the spill reporting exemption to ensure that fewer insignificant spills are reported. • Encourage industry to base their estimates of reportable spill quantities in contingency plans on an assessment of the likelihood of adverse environmental effects.
361 <i>Sulphur Content of Fuels</i>	Applies to the Municipality of Metropolitan Toronto and prohibits the use or sale of any fuel with a sulphur content greater than what is specified in the Schedule without a Certificate of Approval.	Revoke — superseded by Regulation 338. The General Air Regulation will also continue to apply.
362 <i>Waste Management — PCBs</i>	Defines PCB waste and establishes requirements in regards to storage and shipment of PCBs waste.	Revise and incorporate the following changes into a new general waste regulation: <ul style="list-style-type: none"> • Clarify the PCB waste definition making it consistent with federal definition • Simplify and standardize the requirements controlling storage and movement of PCBs.
413/94 <i>Halon Fire Extinguishing Equipment</i>	Controls the use of halons in fire extinguishing equipment by either eliminating their use, or where this is not possible, ensuring their capture and reuse.	<ul style="list-style-type: none"> • Revise to move certification components into a new comprehensive Training, Certification and Accreditation Regulation • Consolidate with 189/94, 356, 717/94 and 718/94 into one ODS regulation
455/94 <i>Recovery of Gasoline Vapour in Bulk Transfers</i>	Controls vapour emissions (gasoline fumes) during the transfer of gasoline at terminals, bulk plants and service stations.	<ul style="list-style-type: none"> • Consolidate with 353, 271/91 for one vehicle and fuels regulation
502/92 <i>Fees for Certificates of Approval</i>	Introduced in October 1992 to generate revenue for improved service.	Revise to provide incentive for pollution prevention and innovative technologies. Refund of fee being considered if time limit for issuance not met.
537/93 <i>Effluents Monitoring & Limits — Petroleum Sector</i>	Applies to seven Ontario refineries and establishes effluent loading limits for eight parameters.	Same as 63/95.
560/94 <i>Effluent Monitoring & Effluent Limits — Metal Mining Sector</i>	Establishes daily and monthly average concentration limits for five metals, cyanide and suspended solids.	Same as 63/95.
561/94 <i>Effluent Monitoring & Effluent Limits — Industrial Minerals Sector</i>	Applies to 26 cement plants and mineral mines and establishes daily and monthly average concentration limits for suspended solids.	Same as 63/95.
562/94 <i>Effluent Monitoring and Effluent Limits — Metal Casting Sector</i>	Applies to 6 plants and establishes daily and monthly average loading limits for 13 parameters at two plants. The remaining four plants are being required to monitor cooling water discharges for up to four parameters.	Same as 63/95.

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660/85 <i>Inco (Countdown Acid Rain)</i>	Limits sulphur dioxide emissions from Inco Limited in Sudbury.	<ul style="list-style-type: none"> Consolidate 660/85, 661/85, 663/85, and 355 into a single regulation outlining the current requirements and deleting completed sections. The requirement for quarterly reports would be reduced to an annual report.
661/85 <i>Falconbridge (Countdown Acid Rain)</i>	Limits sulphur dioxide emissions from Falconbridge Limited in the town of Nickel Centre.	Same as 660/85.
663/85 <i>Algoma (Countdown Acid Rain)</i>	Limits sulphur dioxide emissions from Algoma Steel Corporation in Wawa.	Same as 660/85.
717/94 <i>Solvents — CFC's used as Solvents</i>	Phases-out solvents containing Class 1 ozone depleting substances by July 1, 1996 and solvents containing HCFCs by January 1, 2000.	Consolidate with 189/94, 356, 413/94 and 718/94 into one ODS regulation.
718/94 <i>Sterilants — CFC's used as Sterilants</i>	Phases-out Class 1 ozone depleting substances used as diluents for the sterilization of medical devices by January 1, 1996 and sterilants containing HCFCs after January 1, 2000.	Consolidate with 189/94, 356, 413/94 and 717/94 into one ODS regulation.
760/93 <i>Effluent Monitoring and Effluent Limits — Pulp and Paper Sector</i>	Applies to 26 pulp and paper mills in the province and establishes daily and monthly average effluent loading limits for seven parameters.	<ul style="list-style-type: none"> Revise to remove the requirements in sections 37 and 38 for the Pulp and Paper Sector to submit reports on how to reach zero kg. AOX by 2002 and remove requirement for the Ministry to review the reports against the goal of zero AOX. See also 63/95 for additional reforms.

ENVIRONMENTAL ASSESSMENT ACT

Regulation # and Title	Description of Regulation	Review Conclusion — Reform Opportunities
334 <i>Environmental Assessment — General</i>	Defines the application of the Environmental Assessment Act (EAA). It has been in effect since 1976	Regulation is currently being revised to simplify language and structure. To be released on the EBR Registry in fall 1996. No further changes proposed.
335 <i>Rules of Practice — Environmental Assessment Board</i>	Establishes the Environmental Assessment Board's procedures during hearing processes. It came into effect in 1988.	Board is drafting a new "Rules of Practice" under the <i>Statutory Powers Procedure Act</i> . Subsequently Regulation 335 will be revoked.
345/93 <i>Designation and Exemption — Private Sector Developers</i>	Designates "private sector developers" (as defined in the regulation) subject to the requirements of Section 5(1) of the Environmental Assessment Act (EAA) under several specific circumstances. As of this date, private sector developers proposing certain road, water or wastewater projects to service residential development must fulfil the appropriate requirements of the Municipal Class Environmental Assessment (Class EA) procedures.	No change. No reform is recommended given its recent inception and public acceptance.

APPENDIX B: ANNOTATED LIST OF MINISTRY REGULATIONS ENVIRONMENTAL BILL OF RIGHTS

Regulation # and Title	Description of the Regulation	Review Conclusion — Reform Opportunities
73/94 <i>Application of Act</i>	Prescribes the ministries and Acts subject to the EBR along with timelines for implementation of various sections of the EBR.	Revise to bring names of Ministries up to date.
681/94 <i>Classification of Proposals for Instruments</i>	Prescribes proposals for instruments which are subject to the EBR	Revise to remove EBR notification requirements for certain instruments.

NIAGARA ESCARPMENT PLANNING & DEVELOPMENT ACT

Regulation # and Title	Description of Regulation	Review Conclusion — Reform Opportunities
826 <i>Designation of Area of Development Control</i>	Defines the geographic boundary of the area for development control through a series of metes and bounds.	No Change.
827 <i>Designation of Planning Area</i>	Defines the geographic boundary of the Niagara Escarpment Planning Area through a series of metes and bounds.	No Change.
828 <i>Development Within the Development Control Area</i>	Provides an interpretation of "development" which is exempt from requiring a development permit from the Niagara Escarpment Commission.	No Change.

PESTICIDES ACT

Regulation # and Title	Description of Regulation	Review Conclusion — Reform Opportunities
914 <i>General — Pesticides</i>	Covers all aspects of pesticide use including: sale, disposal, transportation, storage, bans, changes to classification status etc.	<p>Revise to:</p> <ul style="list-style-type: none"> • Reduce the number of types of pesticide licences from 53 to 15. • Introduce recertification every five years for licensed exterminators and new requirements for untrained assistants to take basic health and safety training. • Simplify insurance requirements for operators and require a minimum of \$1 million in comprehensive third party liability for all pest control businesses. • Replace sections that require burial of pesticide containers with new requirements to recycle empty commercial and agricultural plastic and metal pesticide containers. • Simplify public notification requirements to encourage IPM programs and reduced pesticide use. • Remove permit requirements for pesticide applications that pose little environmental risk. • Eliminate those sections of Regulation 914 dealing with the use of older pesticides that are no longer available. • Consolidate and clarify sections of Regulation 914 controlling the use of fumigants. • Eliminate the requirement for listing pesticides with new active ingredients on the EBR Registry. • Eliminate the provincial pesticide classification system and replace it with a new national pesticide classification system.

ONTARIO WATER RESOURCES ACT

Regulation # and Title	Description of Regulation	Review Conclusion — Reform Opportunities
15/92 <i>Forms</i>	Specifies form to be used in registering disclosure requirements on land titles.	No Change.
157/93 <i>Additional Charges — water and sewage works</i>	This regulation sets out provisions for an annual surcharge to be made by the Province for the operation of sewage and water facilities on the behalf of municipalities.	No Change.
435/93 <i>Water Works and Sewage Works</i>	Requires that water and sewage works be classified and operators be trained and licensed appropriate to the class.	Consolidate requirements into a new comprehensive Training, Certification, and Accreditation Regulation.
503/92 <i>Fees for Certificate of Approval</i>	Fees are payable by all applicants for C of A's under Sections 52 and 53 of the Ontario Water Resources Act including applicants for alterations to the approvals. Fees are not payable under this Regulation if the applicant is a municipality or the Crown.	Amend to provide incentive for pollution prevention and innovative technologies. Refund of fee being considered if time limit for issuance not met.
900 <i>Municipal Sewage and Water and Roads Class Environmental Assessment Projects</i>	Eliminates the need for hearings under sections 54(i) and 55(i) of the Ontario Water Resources Act, prior to the approval of sewage works (municipal), provided proponent has met requirement of the Environmental Assessment Act.	No Change.

APPENDIX B: ANNOTATED LIST OF MINISTRY REGULATIONS

902 <i>Rate of Interest</i>	Requires that the interest rate to be used in the calculation of loan repayments from municipalities for water and sewage plants built by the province is to be 5%.	Revoke — regulation is no longer applicable; superseded by Ontario Financing Authority rates.
903 <i>Wells</i>	Sets requirements for the adequate installation, maintenance, and abandonment of wells and data collection in order to prevent the undue deterioration of groundwater and to protect consumers of water from water wells.	Revise the regulation to increase the licensing fee, decrease the frequency of licence renewal, and require that the water well records be submitted in electronic format.

ONTARIO ENERGY BOARD ACT

Regulation # and Title	Description of Regulation	Review Conclusion — Reform Opportunities
188/93 <i>Exemption — from s37(2) of Act — Ontario Hydro</i>	Exemption of Ontario Hydro from the requirement of Section 37 (2) of the <i>Ontario Energy Board Act</i> for prior public review for a change in its charge.	Revoke — powers of the regulation lapsed in 1994 and the regulation is obsolete.
702 <i>Uniform System of Accounts for Gas Utilities Class A</i>	Requires larger (class A) gas utilities to keep the uniform system of accounts specified in the Schedule to this regulation	OEB currently updating. No further changes.
869 <i>General</i>	Sets out fees to be charged by the Board, and: <ul style="list-style-type: none"> • prohibits the sale of free or reduced-charge natural gas; • exempts specific transactions from Section 26 (gas utility ownership); • exempts the sale of natural gas for vehicles from rate regulation; • exempts very small gas utilities from rate regulation; • defines designated areas for the underground storage of natural gas; and • specifies forms to be used for certain functions under the Act. 	Revise to remove all exemptions relating to transactions which have been completed.
870 <i>Rules of Procedure</i>	Sets out the rules for proceedings before the Board.	OEB proceeding to institute as rules rather than a regulation under the <i>Statutory Powers Procedure Act</i> . Subsequently revoke Regulation 870.

ENERGY EFFICIENCY ACT

Regulation # and Title	Description of Regulation	Review Conclusion — Reform Opportunities
82/95 (was 480/91) <i>Efficiency Standards</i>	Establishes minimum energy efficiency levels, compliance dates, and labelling requirements for 40 appliances and products.	Amend to add four new and three revised product efficiency standards to ensure regulatory harmonization with other jurisdictions.

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POWER CORPORATION ACT

Regulation # and Title	Description of Regulation	Review Conclusion — Reform Opportunities
149/92 <i>Prescribed Investments</i>	Outlines the prescribed securities, financial contract agreement and investments which Ontario Hydro can make under paragraph 6 of subsection 23(1) of the <i>Power Corporation Act</i> .	<ul style="list-style-type: none"> • No change recommended at this time to Regulations 931, 149/92, 296/91, 612/94, 611/92 • May be subsequently reconsidered depending on the government's decision in response to recommendations made by the Macdonald Advisory Committee.
296/91 <i>Elliott Lake Region Economic Development Program</i>	Provides economic development assistance from Ontario Hydro to the Elliott Lake Region to enable economic adjustment to the termination of Ontario Hydro contracts for uranium concentrate in the region.	No change recommended at this time. See Reg. 149/92.
611/92 <i>Fees</i>	Sets out fees that may be charged by Ontario Hydro for carrying out safety inspections of electrical installations and electrical equipment in Ontario.	No change recommended at this time. See Reg. 149/92.
612/94 <i>Electrical Safety Code</i>	Sets out technical standards and rules for the installation, sale or use of electrical equipment in Ontario. Intended to ensure public safety and protection of property.	No change recommended at this time. See Reg. 149/92.
931 <i>Debt Guarantee Fees</i>	Allows the province to charge Ontario Hydro a fee for the provincial guarantee of Ontario Hydro's debt and other services related to the guarantee.	No change recommended at this time. See Reg. 149/92.
933 <i>Water Heaters</i>	Required that electric stationary storage type water heaters meet certain prescriptive requirements that reflected energy efficient usage. Products described by Regulation 933 are no longer allowed to be offered for sale, sold or leased in the province of Ontario according to Regulation 82/95 under the <i>Energy Efficiency Act</i> .	Revoke — regulation is outdated since products described are no longer offered for sale in Ontario according to Regulation 82/95 under the <i>Energy Efficiency Act</i> .

